Applied Philosophical Texts

In English

Edited by

Prof.Ahmed Abel Halim Attia

To

Tawfiq El Taweel

Introduction

This book includes some English Texts that deal with applied Philosophy and Ethics. Some of the topics included are Business Ethics, Computer and information ethics, Digital Media Ethics, Theory and Bioethics, and Internet Research Ethics. The book aims at helping students to deal with problems and different issues and how to philosophically deal with them. The book is divided into seven units.

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Unit 1

Business Ethics

Alexei Marcoux

Learning objectives:

By the end of this chapter , the students will be able to:

- Ø understand how he/she define the business ethics?
- Ø analyse the deference between theoretical and applied ethics.
- Ø use applied ethics in his own life.

Elements:

- Ø History of business Ethics.
- Ø Corporation in Business Ethics.
- Ø Is Corporation a moral agent?
- Ø Employment Relation in Business Ethics.
- Ø International Business Ethics.
- Ø Criticism.

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Publications *Case Studies in Business Ethics.* Upper Saddle River, N. J.: Prentice-Hall), (2009).

Refereed Articles

- "Retrieving Business Ethics From Political Philosophy." *Journal of Private Enterprise*, 24. 2 (2009)

- "A Counterintuitive Argument for Résumé Embellishment." *Journal of Business Ethics*, 63. 2 (2006). "The Concept of Business in Business Ethics." *Journal of Private Enterprise*, 21. 2 (2006).

- "Much Ado About Price Discrimination." *Journal of Markets & Morality*, 9. 1 (2006).

Text

Construed broadly as moral reflection on commerce, business ethics is probably as old as trade itself. If law is a rough guide to widely-held moral intuitions (Gooden 1985), the Code of Hammurabi (1700s B.C.), prescribing prices and tariffs and laying down both rules of commerce and harsh penalties for noncompliance, evidences some of civilization's earlier attempts to establish the moral contours of commercial activity. Aristotle's *Politics* (300s B.C.) addresses explicitly commercial relations in its discussion of household management. Judeo-Christian morality, as expressed in, e.g., the Talmud (200 A.D.) and the Ten Commandments (Exodus 20:2-17; Deuteronomy 5:6-21), includes moral rules applicable to commercial conduct.

As a discrete, self-conscious academic discipline, business ethics is roughly four decades old. Raymond Baumhart's (1961, 1963, 1968) groundbreaking studies in the 1960s are generally understood to be early contributions to business ethics. Richard DeGeorge (2005) dates academic business ethics to the 1970s, identifying Baumhart as a forerunner to a self-conscious academic business ethics. Prominent contemporary business ethicist Norman Bowie dates the field's first academic conference to 1974 (DeGeorge 2005).

Although academic instruction explicitly devoted to the relationship between ethics and commerce can be found in U.S. business schools as early as the first three decades of the 20th century, particularly in Catholic colleges and universities, creation of academic positions dedicated explicitly to business ethics in U.S. business schools tracks closely waves of corporate scandal from the 1980s to the present. In 1987, in the midst of the insider trading scandal on Wall Street, former Securities and Exchange Commission head John Shad gave the Harvard Business School over $30 million for the purpose of starting a business ethics program there. Subsequent philanthropy from a number of sources financed the creation of prominent endowed chairs at the University of Virginia's Darden School, the University of Pennsylvania's Wharton School, and other business schools. Today, academic positions in business ethics, whether endowed chairs or ordinary faculty positions, are found frequently in U.S. business schools and in philosophy departments, as well.

Academic business ethicists address questions that range across the functional areas of business, giving rise to various recognized specialties in business ethics (e.g., marketing ethics, finance ethics, accounting ethics). But despite the wide range of questions pursued, the bulk of the academic literature and discussion is focused more closely on (and much of the function-specific work is connected closely to) the large

corporation whose ownership shares are traded on public exchanges.

2. The Corporation in Business Ethics

Although self-conscious, academic business ethics is of recent vintage, its intellectual roots are found in the corporate social responsibility (CSR) and business-and-society literatures originating in law and in business in the early and middle 20th century (see, e.g., Berle and Means 1932). Academic business ethics displays its CSR heritage in the peculiar constellation of concerns that pervade its literature. Those concerns surround the business corporation, which Robert Solomon (1991) calls “the basic unit of commerce today.”

The corporate focus is evident in the titles of early works of academic business ethics that have done much to shape the subsequent discussion in the field. Tom Donaldson's *Corporations and Morality* (1982) and Patricia Werhane's *Persons, Rights, and Corporations* (1985) take business ethics to be concerned centrally with questions about the corporation's proper role in and relationship to the social order. These questions, taken up by the field and continuing to inform its main conversation, are said to surround the “moral status of the corporation,” by which is meant typically one or both of: (1) Is the corporation a moral agent, distinct from the

persons who compose it? (2) Morally, how or in whose interests ought the corporation to be managed?

2.1 Is the corporation a moral agent?

At law, the corporation is a person, distinct in its personality from the persons who bear ownership shares in it (its shareholders) or conduct activities on its behalf (its directors, officers, and other employees). Among the many manifestations of the corporation's separate legal personality are: (i) Distributions of dividends from the corporation to its shareholders are subject to income taxation in the same way that gifts between persons are subject to income taxation. If the corporation were not a separate legal person (as, for example, in U.S. and English law a partnership is not a separate legal person from the partners who compose it) the distribution of dividends would not a be a taxable event (because money would not be changing hands). (ii) Corporations are subject to civil liability that is distinct from that of its owners. Indeed, one of the principal motivations for organizing business activities in the corporate form is that corporate assets are legally separate from the personal assets of the corporation's shareholders. Shareholder liability for corporate debts is limited to whatever assets owners have contributed to the corporation in return for their ownership stakes. (iii) Corporations are subject to criminal liability that is

distinct from that of its owners, directors, officers, or employees.

If the corporation is a legal person, is it also a *moral* person? Anglo-American law takes no explicit position on this, although the corporate personality is frequently described there as a legal *fiction*, suggesting that the corporation's legally recognized personality is not also ontological fact. Business ethicists have taken a variety of positions on the question whether the corporation is a moral person or moral agent.

Peter French (1979, 1984, 1995) argues that important features of the corporation and corporate decision making exhibit all of the necessary components of moral agency. He argues that corporations have corporate internal decision (CID) structures that provide sufficient grounds for attributing moral agency to them. These CID structures consist of two main parts: (i) an organization chart that corresponds to decision authority within the corporation and (ii) rules (usually contained in the corporation's articles of incorporation or its by-laws) for determining whether a decision, made by one who possesses decision making authority according to the organization chart, is a corporate decision rather than merely a personal decision. That is, analogous to H.L.A. Hart's (1961) rule of recognition for determining whether a norm is a legal

norm, there is also a rule of recognition (or set of rules of recognition) for determining whether a decision is a corporate decision. Combining the organization chart with the rule(s) of recognition, one identifies corporate actions, intentions, and aims—the stuff of moral agency in natural persons. Thus, for French, corporations are both legal and moral persons, and hence moral agents in their own right.

To the contrary, Manuel Velasquez (1983) argues that the CID structures to which French appeals are the product of human agency and design. They are rules of cooperation among persons who, given *their* actions, intentions, and aims, associate under the corporate banner. Attributing moral agency to corporations opens the door to the intuitively implausible conclusion that a corporation can be morally responsible for something no natural person connected with it is responsible for.

2.2 How and in whose interests ought the corporation to be governed?

Seeing the large, publicly-traded corporation as the key actor in business, most academic business ethicists understand the foundational normative question of their discipline to be that of how and in whose interests corporations ought to be governed. Over the last two decades, the main attempts to answer this foundational normative question have been

understood as constituting a ‘shareholder-stakeholder debate’ in business ethics.

Originating in the work of R. Edward Freeman (1984), *stakeholder theory* is widely regarded among academic business ethicists as the most significant theoretical construct in their discipline. Normative ethical stakeholder theory articulates the view that a business firm ought to be managed in a way that achieves a balance among the interests of all who bear a substantial relationship to the firm — its stakeholders. In Freeman's account, the very purpose of the firm is coordination of and joint service to its stakeholders.

This characterization is vague, but deliberately so. For the normative ethical stakeholder theory literature in business ethics consists principally in attempts to address one or more of the questions (whether ethical, ontological, or epistemic) this characterization leaves unanswered: *Who* counts, i.e., *who* are the stakeholders? *What interests*, held by those who count, count? What is *balance*, why is it valuable, and how is one charged with achieving it to know when it has been achieved or what activities promote it? *How* are the ends, values, or practices commended by stakeholder theory incompatible with directors and officers extending the partiality entailed by fiduciary care to shareholders, such that stakeholder theory stands as a *rival* to the so-

called *shareholder theory* (about which more below)? Whatever the success of stakeholder theorists in answering these questions, there can be little doubt that stakeholder theory's mode of analysis (identifying stakeholders and their interests; asking how these interests ought to be accommodated, served, subordinated, or traded-off in directing the firm's activities) is the one academic business ethicists adopt most readily in considering the moral controversies they address.

‘Shareholder theory’ is not so much a distinct, univocal normative ethical theory of the firm as it is a shorthand, usually applied by those sympathetic to stakeholder theory to what they understand stakeholder theory to oppose. (A leading encyclopedic dictionary (Werhane and Freeman 1997) boasts a handful of mentions of, but no entry devoted to, shareholder theory.) Thus, ‘shareholder theory’ may be used to describe a defense of prevailing institutions and practices (‘the status quo’), the extension of fiduciary care by officers and directors to a firm's equity owners, or an account of a firm's function derived from neoclassical economics.

Canonically, shareholder theory is understood to be an encapsulation of the views advanced by Milton Friedman (1970) in his famous *New York Times Magazine* article, “The Social Responsibility of Business Is to Increase Its Profits.”

But the appellation is applied most often in the academic business ethics literature to arguments seeking to legitimate morally managerial fiduciary duties owed to a corporation's shareholders—whatever the particular grounds for holding that such managerial partiality is justified. So understood, arguments that managerial partiality to shareholder interests is justified by consequentialist considerations (Boatright 1994), by contract-as-promise (Sollars 2002), by the peculiar vulnerabilities of those bearing the residual risk in the firm (Marcoux 2003), or by the idea that claims to fiduciary care are themselves among a firm's residual claims (Macey 1999) are all contributions to shareholder theory.

More recently, Donaldson, writing with Tom Dunfee (Donaldson and Dunfee 1999), has sought to advance a contractarian theory that provides a framework for settling not just questions of how and in whose interests firms ought to be managed, but also most any ethical question that may arise in the context of doing business. Integrative Social Contracts Theory (ISCT) posits a bi-level array of social contracts in which a single, hypothetical social contract serving a largely adjudicative function with respect to the many extant, actual social contracts in terms of which business relationships are structured. Equally opposed to what is often characterized as shareholder theory, ISCT's relationship to stakeholder theory (and hence to the shareholder-stakeholder debate) is unclear.

In some moments, Donaldson and Dunfee (1999) characterize ISCT as a form of, or the completion of, normative ethical stakeholder theory. In others, it appears to emerge more as a rival to stakeholder theory.

Underlying the shareholder-stakeholder debate is a disagreement over the analogies in terms of which we ought to understand the firm. Stakeholder theorists generally see strong parallels between firms and political states. Call this the *firm-state* analogy. Under the firm-state analogy, a firm's stakeholders are like citizens in a polity. Stakeholder theory is an attempt to elucidate the just claims of citizens (stakeholders) in that polity (the firm). It takes the rich citizenship rights characteristic of liberal democracies as the paradigm for considering each stakeholder's legitimate claims on the firm. Thus, stakeholder theorists see normative political philosophy as a natural source of theoretical constructs and normative principles applicable to the governance of firms (Freeman and Evan 1990; McMahon 1994; Moriarty 2005).

By contrast, defenders of extending fiduciary care to a firm's shareholders frequently appeal, implicitly or explicitly, to the idea that the firm is better understood as either an actual agreement among its stakeholders (Sollars 2002) or else a point of intersection to the many agreements that together make up the firm—a so-called nexus-of-contracts, as the firm

is usually understood in neoclassical economics. Call this the *firm-contract* analogy. Under the firm-contract analogy, a firm's stakeholders are just contractors, people who have agreements with other people. The firm is less an actor (much less, a polity) than a Schelling point around which agreements get made, or a Lockean substrate on which agreements rest. Thus, those who are characterized as shareholder theorists usually see prescriptions of normative political philosophy derived from concepts like citizenship as poor guides to the governance of firms.

Which analogy strikes one more compelling depends upon how one conceives of the relative and absolute availability of exit and voice opportunities (Hirschmann 1970) to a firm's stakeholders. The rich voice rights characterizing just polities in much of normative political philosophy are compelling in significant part because one generally is bound to a political state and cannot exit that political state except for another political state. However, rich voice rights are less compelling as a model of just human interaction where liberal exit opportunities exist. Organizational hierarchies and terms of employment that would be intolerable as conditions of citizenship in a polity may be unexceptional in the context of a firm, owing to the consensual aspect of participating in a firm and the richer right to and availability of exit from the arrangement.

It is not surprising, then, that much in the shareholder-stakeholder debate turns on how theorists characterize the exit opportunities available to a firm's stakeholders (Maitland 1994). Stakeholder theorists emphasize circumstances in which exit opportunities are costly, especially for non-shareholding stakeholders, in order to justify voice rights, e.g., strong rights of participation in a firm's governance (Freeman and Evan 1990), or other claims, e.g., protection against termination of employment. Shareholder theorists emphasize rights of exit and the wide array of options available in vibrant markets, especially to non-shareholding stakeholders, that have no analogue in the more static world of political states.

Unlike the case of corporate moral agency, wherein the corporate form is itself the source of the debate, the virtually exclusive focus on the large, publicly-traded corporation in the shareholder-stakeholder debate is strange. For the same questions about how and in whose interests firms ought to be managed arise also, and often more forcefully, in firms doing business in forms other than the publicly-traded corporate one. Closely-held corporations and partnerships lack the fluid markets for ownership shares that make exit a viable choice for the disgruntled shareholder. Moreover, closely-held corporations and partnerships are marked frequently by widely diverging interests among members of the ownership class, whether due to the fact that some of those members are in day-

to-day control of the enterprise whereas others are not, or that one or a small coalition of owners form an effective voting majority of shareholders, leaving minority shareholder interests to the majority's mercy.

3. The Employment Relation in Business Ethics

Falling neatly out of concern about the power of large, publicly traded corporations is a concern about the terms of employment they afford. The discussion of the employment relation in academic business ethics has crystallized into a debate over the relative moral merits of *at-will* employment terms and *just cause* employment terms, especially in light of the place each occupies in employment law.

Absent a contract to the contrary, in the great bulk of U.S. jurisdictions the employment relation is governed by the at-will doctrine. Under the at-will doctrine, an employment relation may be terminated by either party (employer, employee), for any reason or no reason at all, without notice. At-will employment thus constitutes a *default* contract—it is the agreement that obtains between employers and employees absent an agreement to the contrary (e.g., a union contract). Over time, both statutory and case law have carved out a number of exceptions to the at-will doctrine. Thus, the at-will doctrine will not protect an employer who uses the power of termination to engage in racial discrimination, punish an

employee for refusing to violate the law, and so forth. Absent circumstances covered by the exceptions, however, the at-will doctrine remains the basic rule governing employment relations in most of the U.S.

Most of the discussion of the employment relation in academic business ethics concerns the fairness of the at-will doctrine and whether other terms of employment ought to be substituted for it through public policy initiatives. Indeed, the debate makes little sense outside the public policy context. On broadly Kantian grounds, Werhane (1985) argues that arbitrary dismissal is incompatible with respecting employees as persons. Respecting employees as persons demands that they be supplied with good reasons when adverse action is taken against them. Thus, at-will employment (or at least, dismissal without cause undertaken in accordance with the at-will doctrine) is incompatible with recognizing and respecting the employee's personhood.

Werhane's argument may depend on an equivocation between giving employees reasons and giving employees reasons *on the merits*. That is, even if one accepts that, morally, employees as persons are owed reasons, it doesn't follow that the reasons they are owed are reasons that go to, e.g., their job performance, the firm's economic prospects, etc. The at-will doctrine supplies a reason. It says that the terms of

our arrangement are such that any of us has the option to terminate it at our discretion. That, coupled with exercise of one's discretion, is sufficient reason to terminate the arrangement. Many decisions affecting persons are settled on the basis of reasons that do not refer to the merits of the case. At law, for example, a plaintiff's case may be dismissed because the statute of limitations has run, because it was filed in the wrong jurisdiction, because the court is not competent to hear the case, etc. None of these are reasons on the merits, but it would be strange to conclude that these dispositions of their claims fail to respect plaintiffs' personhood.

Arguments advanced in defense of the at-will doctrine lean heavily on consequentialist considerations. (But see, e.g., Maitland 1989, for an argument that defends the at-will doctrine on rights grounds.) Proponents attribute the vibrant labor market of the United States and the stagnant labor markets of Europe to the prevalence of the at-will doctrine in the United States and the prevalence of mandatory just cause employment rules in Europe. Mandatory just cause rules are a significant disincentive to job creation and to the pursuit of labor-intensive entrepreneurial ventures because they impose heavy record-keeping and infrastructure requirements on firms. Richard Epstein (1984) puts the point succinctly: “Harder to fire mean harder to hire.” Similarly, David Schmidtz (1998) observes that young black males in the

United States enjoy greater employment prospects than do young white males in France in the course of arguing for freer markets in labor—markets that include a default at-will employment contract. The point is that employees can be protected from the ill-effects of arbitrary dismissal in two ways. One way, favored by just cause advocates, is legally. The other way is through the promotion of a vibrant labor market in which jobs are frequently created and readily available. The at-will doctrine lubricates vibrant labor markets by reducing the costs and the stakes of disputes over dismissal. Mandatory just cause rules do the opposite.

The consequentialist case for the at-will doctrine depends critically on the vicissitudes of the labor market and what one considers its normal or usual state to be. When the labor market is strong, as in the middle 1980s or late 1990s U.S., that case is compelling. When it is weak, as in the late 1970s or early 1980s U.S., then it is less so.

Some of the more interesting and sophisticated contributions to the debate by just cause proponents come from outside the business ethics literature. In the legal literature, the trend among just cause proponents is toward acknowledging the appeal of a default rule regime like that in which at-will employment is the default, but arguing that the default ought instead to be just cause. Cass Sunstein (2002),

for example, argues that the best world is one in which we capture the benefits of a default rule regime, including permitting those best served by at-will employment to enter into at-will arrangements, but in which the default rule is just cause. He favors the just cause default rule on the grounds that behavioral economics research shows that people are influenced heavily by default rules and default choices. In addition, people tend to regard benefits they already possess as more important than those they can bargain for (i.e., they exhibit what social psychologists call the *endowment effect*). Consequently, Sunstein believes that just cause default rules will yield more employees covered by just cause, which outcome he holds to be an improvement, but at the same time will permit employers and employees genuinely and mutually better served by at-will rules to contract for them instead.

David Millon (1998) favors a just cause default rule, by contrast, on the grounds that it will permit employees to hold out for higher wages in return for becoming at-will employees. He acknowledges that just cause employment rules are costly, but believes that avoidance of those costs, in favor of more efficient at-will employment relations, will motivate employers to be more generous in their wage offers. In sum, Millon sees changing the default rule from at-will to just cause as a *redistributive* strategy, not as a means of getting more employees covered by just cause employment rules.

The debate over at-will employment is a debate not about what employers and employees ought or ought not to do, but instead about the merits of taking the terms of employment continuation out of the realm of contract and into the realm of public policy. In that sense, it is more like the debate over the minimum wage. The at-will doctrine neither commends nor incentivizes a managerial practice. Instead, it apportions the legal risk of arbitrary firing in a way different than just cause rules do. Which apportionment is better may tell us much about the public policies we ought to have, but it doesn't tell us how we ought to conduct business.

4. International Business Ethics

Doing business transnationally raises a number of issues that have no analogue in business dealings done within a single country or legal jurisdiction. International business ethics seeks to address those issues. Where ethical norms are in conflict, owing to different cultural practices, which ethical norms ought to guide one's business conduct in other nations and cultures? Some discussions of international business ethics conceive this home country/host country question as central. On one hand, adopting host country norms is a way to respect the host culture and its members. Thus, business persons are advised that when in Rome they ought do as the Romans do—as in etiquette, so too in ethics. On the other hand, business

persons are advised to resist host country norms that are morally repugnant. Therein lies the rub. When, for example, bribery of officials is central to doing business where you are, ought you to embrace the practice as a mark of cultural respect or forswear the practice on the grounds that it is morally repugnant?

One common approach in international business ethics is to refer to or to construct lists of norms that ought to guide transnational business conduct. Thus, for example, the United Nations' *Universal Declaration of Human Rights* or, more recently, the *United Nations Global Compact,* is advanced as a guide to conduct. The *UN Global Compact* enjoins business firms to support and respect internationally recognized human rights, avoid complicity in human rights abuses, uphold freedom of association and collective bargaining, eliminate forced and compulsory labor, eliminate child labor, eliminate all forms of discrimination in employment, support a precautionary approach to environmental challenges, promote greater environmental responsibility, encourage the development of environmentally friendly technologies, and work against corruption in all its forms, including extortion and bribery. Alternatively, whether inspired by something like the *UN Global Compact*, a preferred moral theory, a preferred theory of justice, or some combination of these or other factors, other lists of norms are proposed as guides to the

ethical practice of transnational business. DeGeorge (1993), for example, advances ten guidelines for the conduct of multinational firms doing business in less developed countries. These guidelines call for the avoiding harm, doing good, respecting human rights, respecting the local culture, cooperating with just governments and institutions, accepting ethical responsibility for one's actions, and making hazardous plants and technologies safe. Among other uses, Donaldson and Dunfee (1999) see the hypothetical, macrosocial contract in ISCT providing an ideal framework for adjudicating questions of transnational business conduct.

The problems with these approaches appear to be threefold. First, they tend to minimize or ignore competitive reality. Imagine that our firm takes seriously the *UN Global Compact*. We do business in a less developed country with longstanding environmental and corruption problems. We are implementing a significant environmental initiative in this country, but find that our ability to do so depends upon securing licenses from a corrupt government bureaucracy. If we refuse to pay bribes, we will be unable to implement our initiative and, moreover, we will lose market share and our economic rationale for locating operations in this country to competitors who have no compunction about paying such bribes. Ought we to pay bribes for the sake of environmental improvement and maintaining a presence in this country or

forsake the environment and a presence in this country in order to strike a blow against corruption? Although not focusing explicitly on the international context, Ronald Green (1991) stands virtually alone in taking seriously the question of when and under what conditions ‘everyone's doing it’ is a moral justification—a question that arises regularly when doing business transnationally and in competitive markets. Second, these approaches serve mainly to reduplicate the home country/host country question they are intended to help answer. Thus, when enjoined by DeGeorge to cooperate with *just* governments and institutions, which and whose sense of justice ought to guide the determination of whether the governments and institutions are to be cooperated with? Third, even when enjoining respect for local cultures and moral norms, these approaches tend to privilege Western conceptions of justice, fairness, and ethics. Thus, in Donaldson and Dunfee's ISCT, it is a *hypothetical social contract*—a concept itself embodying Western notions of procedural fairness—that is supposed to adjudicate clashes between home country and host country, including Western and non-Western, norms and practices.

Moreover, the more interesting home country/host country cases are those where home country norms are explicitly extraterritorial and incompatible with host country norms. In ‘Italian Tax Mores’, a case widely republished in business

ethics textbooks and anthologies (see, e.g., Gini 2005: 70-71), Arthur Kelly tells of American firms doing business in Italy. American securities regulations, accounting principles, and conceptions of commercial integrity require firms to account for their tax liability (including foreign tax liability) fully and correctly, with that liability matching what appears on their tax returns. Italian tax authorities, by contrast, take a firm's tax return to constitute not a full and correct accounting, but an initial negotiating position to which they then make a counteroffer. A firm's final tax liability is settled through negotiation between the tax authorities and the firm. Consequently, an American firm's tax liability for its Italian operations will likely never match what is reported on its tax return, in contravention of securities regulations, good accounting practice, and conceptions of commercial integrity back home. General principles of good conduct and hypothetical social contracts seem not to speak to what tax accountants and auditors ought to do, given the institutions and norms that actually confront them.

International business ethics has taken on a new urgency with the emergence of globalization. Low transaction and communication costs, driven by advances in computer and telecommunication technologies, have made the global market, once a metaphor (and at least for some, an aspiration), truly global. Transnational business is increasingly the rule rather

than the exception, especially in the production of shoes, clothing, automobiles, and other commodity goods. Nowhere has this urgency been felt more acutely than in the debate over so-called sweatshop labor—the hiring of workers in less developed countries, usually at wages and under work conditions prevailing in those countries, to manufacture products for the developed world.

Opponents of sweatshop labor argue that multinational firms like Nike wrongfully exploit poor work and wage conditions in less developed countries. They argue that, when contracting for labor in less developed countries, multinational firms are duty-bound to pay living wages and ensure that work conditions more closely approximate those that prevail in the developed world.

In a paper much reprinted and anthologized, Ian Maitland (1997) argues that sweatshops constitute for many less developed countries an important rung on the ladder to economic development. Although small relative to the developed world, wages paid in factories serving multinationals like Nike exceed, often by a wide margin, those prevailing in the surrounding economy. The same is true of working conditions. Consequently, sweatshops are a force for the better in the less developed countries in which they appear. They demonstrate the abilities of the local work force, serve to

raise local wages as local firms and other multinationals compete for the best employees, and through the extra-market wages they pay facilitate the personal savings and capital formation on which economic development depends. Demanding that multinationals pay even more, so-called living wages—by which is generally meant wages that closely approximate those prevailing in the developed world—is to effectively deny workers in the less developed world the opportunity to compete in the world labor market. For the outcome of a mandatory living wage is not sweatshop workers being paid more, but multinationals keeping factories in places where the market wage parallels the living one (usually the developed world). This promises to leave sweatshop workers working for the (lower) prevailing wages and in the (poorer) prevailing conditions that their local economies, absent the multinationals, offer. According to Maitland, opponents of sweatshop labor are guilty of allowing the perfect to be the enemy of the good.

Maitland's critics have replied generally by disputing the effects that flow from living wage mandates and other proposals for overcoming sweatshop labor. Denis Arnold and Norman Bowie (2003), for example, argue that Kantian respect for persons demands payment of a living wage. They maintain that the minimum wage research of economists David Card and Alan Krueger (1995) demonstrates that raising

the wages of low-wage workers lacks the unemployment effects that Maitland predicts. As sweatshop workers earn wages that are usually below those of U.S. minimum wage workers, it is likely that they will escape the unemployment effect. Just as which corporate analogy (firm-state, firm-contract) is more compelling depends upon how one understands the relative and absolute availability of exit from the firm, which sweatshop argument is more compelling depends, at least in part, on the economics. Where the Card and Krueger study fits within the larger body of research about the minimum wage is a matter of dispute among economists. How economists come down on it will have implications for at least one, important aspect of the sweatshop labor debate in business ethics.

5. Criticism

The main conversation in academic business ethics is focused on the large, publicly traded corporation. It owes its prescriptions mainly to normative political philosophy, rather than moral theory. It speaks more to public policy toward business (and especially the large, publicly traded corporation) and the institutions of capitalism than it does to ethical business conduct, i.e., what one ought to be doing when one is doing business.

That academic business ethics is focused mainly on public policy toward the large corporation and the institutions of capitalism can be seen in a characterization of the field due to Solomon (1991). Solomon distinguishes three levels of business ethics analysis or argument, which he calls the micro, the macro, and the molar. The *micro* level concerns “the rules for fair exchange between two individuals.” The *macro* level concerns “the institutional or cultural rules of commerce for an entire society” (‘the business world’). The *molar* level (‘molar’ from the Latin *moles*, meaning ‘mass’) concerns “the basic unit of commerce today—the corporation” (1991: 359). Although Solomon is careful to describe and articulate the central questions of the macro and molar levels of business ethics, the micro level—the level at which people do business—isn't favored with a similar treatment in his discussion. Solomon's macro level business ethics addresses the relationship between political society and economic activity. It “becomes part and parcel of those large questions about justice, legitimacy, and the nature of society that constitute social and political philosophy” (1991: 359). His molar level is a response the fact that, according to Solomon, “the central questions of business ethics tend to be unabashedly aimed at the directors and employees of those few thousand or so companies that rule so much of commercial life around the world” (1991: 359).

As the macro and molar conversations (conversations that are clearly derivative of normative political philosophy) dominate academic business ethics, some wonder what its distinctive contribution is supposed to be and what is the justification for including it (and often, requiring it) in the business school curriculum. Much of academic business ethics's content is contentious, depending upon highly debatable claims about justice, and argues for institutions unlikely to be the ones within which business persons will operate. Consequently, it says less about what one ought to do when doing business than is generally supposed or advertised.

This criticism comes in milder and stronger variants. Andrew Stark (1993) faults academic business ethics for its overemphasis on issues of public policy and top-level corporate decision making. He calls instead for a business ethics focused more on the quotidian decisions and dilemmas of the middle manager. Stark's criticisms are mild because he endorses generally the large, publicly-traded corporate and organizational focus, seeking only to make the subject matter more practical and pitched more to the middle and less to the top-level manager. Joseph Heath (2006) finds academic business ethics's reduction of all issues to battles of stakeholder interests both myopic and misleading. In its place, he favors a methodological approach that sees unregulated

market failures, rather than clashes of stakeholder interests, as the principal occasion for ethical deliberation and restraint.

In the stronger form, criticism of academic business ethics can focus on its apparent irrelevance to the vast majority of business persons in the world. That majority works neither for nor with (and certainly doesn't lead) large, publicly traded corporations, yet they surely engage in business. Whether characterized as micro-enterprises, small businesses, or in some other way, the great body of academic business ethics has little to say about the circumstances faced by that majority. Although conceptually the micro level business ethics of which Solomon writes speaks to the circumstances of that worldwide majority, in practice that micro ethics is little developed by and commands scant attention from academic business ethicists. Tethered by its CSR heritage, academic business ethics emerges as a discussion focused on large-scale, North America and Europe-based firms, perhaps with similarly large-scale Asia-based firms included, as well. Except as the potential object of predation by these large-scale firms, business done in the rest of the world and business done outside the large, publicly-traded corporate sectors of North America, Europe, and Asia fall mostly outside the field's purview. In a more methodological vein, Nicholas Capaldi (2006) argues that philosophy's contribution to business ethics needs to be a form of explication, rather than exploration. Its

purpose should be to articulate the norms internal to and inherent in business practice (just as legal ethics does with respect to legal practice and medical ethics does with respect to medical practice), rather than to submit briefs on behalf of ideal economic institutions favored by university academics.

Summary

In concept, *business ethics* is the applied ethics discipline that addresses the moral features of commercial activity. In practice, however, a dizzying array of projects is pursued under its rubric. Programs of legal compliance, empirical studies into the moral beliefs and attitudes of business people, a panoply of best-practices claims (in the name of their moral merit or their contribution to business success), arguments for (or against) mandatory worker participation in management, and attempts at applying traditional ethical theories, theories of justice, or theories of the state to firms or to the functional areas of business are all advanced as contributions to business ethics—even and especially in its academic literature. These projects vary considerably and often seem to have little in common other than the conviction, held by those who pursue them, that whatever each is pursuing *is* business ethics.

This entry focuses generally on academic business ethics, more particularly on the philosophically-informed part of business ethics, and most particularly on the constellation of philosophically-relevant questions that inform the main conversation and ongoing disagreement among academic business ethicists. It covers: (1) the history of business ethics

as an academic endeavor; (2) the focus on the corporation in academic business ethics; (3) the treatment of the employment relation in academic business ethics; (4) the treatment of transnational issues in academic business ethics; and (5) criticism of the focus and implicit methodology of academic business ethics.

Exercise

1. “Academic business ethics displays its SCR heritage in the peculiar constellation of concerns that pervade its literature. Those concerns surround the business corporation, which Robert Solomon (1991) calls “the basic unit of commerce today”. Comment on the previous text and explain the previous statement of Robert Solomon in the light of your study of business ethics.

2. Define the International Business Ethics.

3. Define The Corporation in Business Ethics

Unit 2

Computer and information ethics- A

Terrell Bynum

Learning Objects :

By the end of this chapter students will be able to:

- understand computer and information ethics.
- know the difference between laws and morals of using computer and information.

Elements:

- The Foundation of Computer and Information Ethics.
- Definition of Computer Ethics.
- Sample topics in Computer Ethics.
- Computers in the Workplace.
- Computer Crimes.
- Privacy and Anonymity.
- Intellectual Property.
- Professional Responsibility.

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Dr. Bynum has conducted workshops, given speeches and addresses, produced and hosted video programs, and published articles on computing and human values. His other publications include books, monographs, articles, and reviews in logic, psychology, history of philosophy, artificial intelligence, and education. For 25 years Dr. Bynum was editor-¡in¡-chief of *Metaphilosophy*, an international scholarly journal published by Basil Blackwell of Oxford, England. Dr. Bynum also edited *Computers and Ethics*, Blackwell, 1985; and co-¡edited *Computer Ethics and Professional Responsibility*, published by Blackwell in 2002.

1. Some Historical Milestones

1.1 The Foundation of Computer and Information Ethics

In the mid 1940s, innovative developments in science and philosophy led to the creation of a new branch of ethics that would later be called “computer ethics” or “information ethics”. The founder of this new philosophical field was the American scholar Norbert Wiener, a professor of mathematics and engineering at MIT. During the Second World War, together with colleagues in America and Great Britain, Wiener helped to develop electronic computers and other new and powerful information technologies. While engaged in this war effort, Wiener and colleagues created a new branch of applied science that Wiener named “cybernetics” (from the Greek word for the pilot of a ship). Even while the War was raging, Wiener foresaw enormous social and ethical implications of cybernetics combined with electronic computers. He predicted that, after the War, the world would undergo “a second industrial revolution” — an “automatic age” with “enormous potential for good and for evil” that would generate a staggering number of new ethical challenges and opportunities.

When the War ended, Wiener wrote the book *Cybernetics* (1948) in which he described his new branch of applied science and identified some social and ethical implications of electronic computers. Two years later he published *The Human Use of Human Beings* (1950), a book in which he explored a number of ethical issues that computer and information technology would likely generate. The issues that he identified in those two books, plus his later book *God and Golem, Inc.* (1963), included topics that are still important today: computers and security, computers and unemployment, responsibilities of computer professionals, computers for persons with disabilities, computers and religion, information networks and globalization, virtual communities, teleworking, merging of human bodies with machines, robot ethics, artificial intelligence, and a number of other subjects. (See Bynum 2000, 2004, 2005, 2006.)

Although he coined the name "cybernetics" for his new science, Wiener apparently did not see himself as also creating a new branch of ethics. As a result, he did not coin a name like "computer ethics" or "information ethics". These terms came into use decades later. (See the discussion below.) In spite of this, Wiener's three relevant books (1948, 1950, 1963) do lay down a powerful foundation, and do use an effective methodology, for today's field of computer and information ethics. His thinking, however, was far ahead of other scholars;

and, at the time, many people considered him to be an eccentric scientist who was engaging in flights of fantasy about ethics. Apparently, no one — not even Wiener himself — recognized the profound importance of his ethics achievements; and nearly two decades would pass before some of the social and ethical impacts of information technology, which Wiener had predicted in the late 1940s, would become obvious to other scholars and to the general public.

In *The Human Use of Human Beings,* Wiener explored some likely effects of information technology upon key human values like *life, health, happiness, abilities, knowledge, freedom, security, and opportunities*. The metaphysical ideas and analytical methods that he employed were so powerful and wide-ranging that they could be used effectively for identifying, analyzing and resolving social and ethical problems associated with all kinds of information technology, including, for example, computers and computer networks; radio, television and telephones; news media and journalism; even books and libraries. Because of the breadth of Wiener's concerns and the applicability of his ideas and methods to every kind of information technology, the term "information ethics" is an apt name for the new field of ethics that he founded. As a result, the term "computer ethics", as it is typically used today, names only a subfield of Wiener's much broader concerns.[1]

In laying down a foundation for information ethics, Wiener developed a cybernetic view of human nature and society, which led him to an ethically suggestive account of the purpose of a human life. Based upon this, he adopted "great principles of justice" that he believed all societies ought to follow. These powerful ethical concepts enabled Wiener to analyze information ethics issues of all kinds.

A cybernetic view of human nature

Wiener's cybernetic understanding of human nature stressed the physical structure of the human body and the remarkable potential for learning and creativity that human physiology makes possible. While explaining human intellectual potential, he regularly compared the human body to the physiology of less intelligent creatures like insects:

Cybernetics takes the view that the structure of the machine or of the organism is an index of the performance that may be expected from it. The fact that the mechanical rigidity of the insect is such as to limit its intelligence while the mechanical fluidity of the human being provides for his almost indefinite intellectual expansion is highly relevant to the point of view of this book. … man's advantage over the rest of nature is that he has the physiological and hence the intellectual equipment to adapt himself to radical changes in his environment. The human species is strong only insofar as it

takes advantage of the innate, adaptive, learning faculties that its physiological structure makes possible. (Wiener 1954, pp. 57-58, italics in the original)

Given the physiology of human beings, it is possible for them to take in a wide diversity of information from the external world, access information about conditions and events within their own bodies, and process all that information in ways that constitute reasoning, calculating, wondering, deliberating, deciding and many other intellectual activities. Wiener concluded that the purpose of a human life is to flourish as the kind of information-processing organisms that humans naturally are:

I wish to show that the human individual, capable of vast learning and study, which may occupy almost half of his life, is physically equipped, as the ant is not, for this capacity. Variety and possibility are inherent in the human sensorium — and are indeed the key to man's most noble flights — because variety and possibility belong to the very structure of the human organism. (Wiener 1954, pp. 51-52)

Underlying metaphysics

Wiener's account of human nature presupposed a metaphysical view of the universe that considers the world and all the entities within it, including humans, to be combinations

of matter-energy and information. Everything in the world is a mixture of both of these, and *thinking*, according to Wiener, is actually *a kind of information processing*. Consequently, the brain does not secrete thought "as the liver does bile", as the earlier materialists claimed, nor does it put it out in the form of energy, as the muscle puts out its activity. Information is information, not matter or energy. No materialism which does not admit this can survive at the present day. (Wiener 1948, p. 155)

According to Wiener's metaphysical view, everything in the universe comes into existence, persists, and then disappears because of the continuous mixing and mingling of information and matter-energy. Living organisms, including human beings, are actually patterns of information that persist through an ongoing exchange of matter-energy. Thus, he says of human beings.

We are but whirlpools in a river of ever-flowing water. We are not stuff that abides, but patterns that perpetuate themselves. (Wiener 1954, p. 96)

The individuality of the body is that of a flame…of a form rather than of a bit of substance. (Wiener 1954, p. 102)

Using the language of today's "information age" we would say that, according to Wiener, human beings are "information

objects”; and their intellectual capacities, as well as their personal identities, are dependent upon persisting patterns of information and information processing within the body, rather than on specific bits of matter-energy.

Justice and human flourishing

According to Wiener, for human beings to flourish they must be free to engage in creative and flexible actions and thereby maximize their full potential as intelligent, decision-making beings in charge of their own lives. This is the purpose of a human life. Because people have various levels of talent and possibility, however, one person's achievements will be different from those of others. It is possible, though, to lead a good human life — to flourish — in an indefinitely large number of ways; for example, as a diplomat, scientist, teacher, nurse, doctor, soldier, housewife, midwife, musician, artist, tradesman, artisan, and so on.

This understanding of the purpose of a human life led Wiener to adopt what he called “great principles of justice” upon which society should be built. He believed that adherence to those principles by a society would maximize a person's ability to flourish through variety and flexibility of human action. Although Wiener stated his “great principles”, he did not assign names to them. For purposes of easy reference, let us call them “The Principle of Freedom”, “The

Principle of Equality" and "The Principle of Benevolence". Using Wiener's own words yields the following list of "great principles" (1954, pp. 105-106):

The Principle of Freedom

Justice requires "the liberty of each human being to develop in his freedom the full measure of the human possibilities embodied in him."

The Principle of Equality

Justice requires "the equality by which what is just for A and B remains just when the positions of A and B are interchanged."

The Principle of Benevolence

Justice requires "a good will between man and man that knows no limits short of those of humanity itself."

Given Wiener's cybernetic account of human nature and society, it follows that people are fundamentally social beings, and that they can reach their full potential only when they are part of a community of similar beings. Society, therefore, is essential to a good human life. *Despotic societies,* however, actually *stifle human freedom*; and indeed they violate all three of the "great principles of justice". For this reason, Wiener

explicitly adopted a fourth principle of justice to assure that the first three would not be violated. Let us call this additional principle "The Principle of Minimum Infringement of Freedom":

The Principle of Minimum Infringement of Freedom

What compulsion the very existence of the community and the state may demand must be exercised in such a way as to produce no unnecessary infringement of freedom (1954, p. 106).

A refutation of ethical relativism

If one grants Wiener's account of a good society and of human nature, it follows that *a wide diversity of cultures — with different customs, languages, religions, values and practices — could provide a context in which humans can flourish.* Sometimes ethical relativists use the existence of different cultures as proof that there is not — and could not be — an underlying ethical foundation for societies all around the globe. In response to such relativism, Wiener could argue that, given his understanding of human nature and the purpose of a human life, we can embrace and welcome a rich variety of cultures and practices while still advocating adherence to "the great principles of justice". Those principles offer *a cross-cultural foundation for ethics*, even though they leave room for

immense cultural diversity. The one restriction that Wiener would require in any society is that it must provide a context where humans can realize their full potential as sophisticated information-processing agents, making decisions and choices, and thereby taking responsibility for their own lives. Wiener believed that this is possible only where significant freedom, equality and human compassion prevail.

Methodology in information ethics

Because Wiener did not think of himself as creating a new branch of ethics, he did not provide metaphilosophical comments about what he was doing while analyzing an information ethics issue or case. Instead, he plunged directly into his analyses. Consequently, if we want to know about Wiener's method of analysis, we need to observe *what he does*, rather than look for any metaphilosophical commentary upon his own procedures.

When observing Wiener's way of analyzing information ethics issues and trying to resolve them, we find — for example, in *The Human Use of Human Beings* — that he tries *to assimilate new cases by applying already existing, ethically acceptable laws, rules, and practices*. In any given society, there is a network of existing practices, laws, rules and principles that govern human behavior within that society. These “policies” — to borrow a helpful word from Moor

(1985) — constitute a “received policy cluster” (see Bynum and Schubert 1997); and in a reasonably just society, they can serve as *a good starting point for developing an answer to any information ethics question*. Wiener's methodology is to combine the “received policy cluster” of one's society with his account of human nature, plus his “great principles of justice”, plus critical skills in clarifying vague or ambiguous language. In this way, he achieved a very effective method for analyzing information ethics issues. Borrowing from Moor's later, and very apt, description of computer ethics methodology (Moor 1985), we can describe Wiener's methodology as follows:

1. Identify an ethical question or case regarding the integration of information technology into society. Typically this focuses upon technology-generated possibilities that could affect (or are already affecting) life, health, security, happiness, freedom, knowledge, opportunities, or other key human values.

2. Clarify any ambiguous or vague ideas or principles that may apply to the case or the issue in question.

3. If possible, apply already existing, ethically acceptable principles, laws, rules, and practices (the “received policy cluster”) that govern human behavior in the given society.

4. If ethically acceptable precedents, traditions and policies are insufficient to settle the question or deal with the case, use the purpose of a human life plus the great principles of justice to find a solution that fits as well as possible into the ethical traditions of the given society.

In an essentially just society — that is, in a society where the “received policy cluster” is reasonably just — this method of analyzing and resolving information ethics issues will likely result in ethically good solutions that can be assimilated into the society.

Note that this way of doing information ethics does not require the expertise of a trained philosopher (although such expertise might prove to be helpful in many situations). Any adult who functions successfully in a reasonably just society is likely to be familiar with the existing customs, practices, rules and laws that govern a person's behavior in that society and enable one to tell whether a proposed action or policy would be accepted as ethical. So those who must cope with the introduction of new information technology — whether they are computer professionals, business people, workers, teachers, parents, public-policy makers, or others — can and should engage in information ethics by helping to integrate new information technology into society in an ethically acceptable way. Information ethics, understood in this *very*

broad sense, is too important to be left only to information professionals or to philosophers. Wiener's information ethics interests, ideas and methods were very broad, covering not only topics in the specific field of “computer ethics”, as we would call it today, but also issues in related areas that, today, are called “agent ethics”, “Internet ethics”, and “nanotechnology ethics”. The purview of Wiener's ideas and methods is even broad enough to encompass subfields like journalism ethics, library ethics, and the ethics of bioengineering.

Even in the late 1940s, Wiener made it clear that, on his view, the integration into society of the newly invented computing and information technology would lead to the remaking of society — to “the second industrial revolution” — “the automatic age”. It would affect every walk of life, and would be a multi-faceted, on-going process requiring decades of effort. In Wiener's own words, the new information technology had placed human beings “in the presence of another social potentiality of unheard-of importance for good and for evil.” (1948, p. 27) However, because he did not think of himself as creating a new branch of ethics, Wiener did not coin names, such as “computer ethics” or “information ethics”, to describe what he was doing. These terms — beginning with “computer ethics” — came into common use years later, starting in the mid 1970s with the work of Walter Maner.

Today, the “information age” that Wiener predicted half a century ago has come into existence; and the metaphysical and scientific foundation for information ethics that he laid down continues to provide insight and effective guidance for understanding and resolving ethical challenges engendered by information technologies of all kinds.

1.2 Defining Computer Ethics

In 1976, nearly three decades after the publication of Wiener's book *Cybernetics*, Walter Maner noticed that the ethical questions and problems considered in his Medical Ethics course at Old Dominion University often became more complicated or significantly altered when computers got involved. Sometimes the addition of computers, it seemed to Maner, actually generated *wholly new ethics problems that would not have existed if computers had not been invented*. He concluded that there should be a new branch of applied ethics similar to already existing fields like medical ethics and business ethics; and he decided to name the proposed new field “computer ethics”. (At that time, Maner did not know about the computer ethics works of Norbert Wiener.) He defined the proposed new field as one that studies ethical problems “aggravated, transformed or created by computer technology”. He developed an experimental computer ethics course designed primarily for students in university-level

computer science programs. His course was a success, and students at his university wanted him to teach it regularly. He complied with their wishes and also created, in 1978, a “starter kit” on teaching computer ethics, which he prepared for dissemination to attendees of workshops that he ran and speeches that he gave at philosophy conferences and computing science conferences in America. In 1980, Helvetia Press and the National Information and Resource Center on Teaching Philosophy published Maner's computer ethics “starter kit” as a monograph (Maner 1980). It contained curriculum materials and pedagogical advice for university teachers. It also included a rationale for offering such a course in a university, suggested course descriptions for university catalogs, a list of course objectives, teaching tips, and discussions of topics like privacy and confidentiality, computer crime, computer decisions, technological dependence and professional codes of ethics. During the early 1980s, Maner's *Starter Kit* was widely disseminated by Helvetia Press to colleges and universities in America and elsewhere. Meanwhile Maner continued to conduct workshops and teach courses in computer ethics. As a result, a number of scholars, especially philosophers and computer scientists, were introduced to computer ethics because of Maner's trailblazing efforts.

The “uniqueness debate”

While Maner was developing his new computer ethics course in the mid-to-late 1970s, a colleague of his in the Philosophy Department at Old Dominion University, Deborah Johnson, became interested in his proposed new field. She was especially interested in Maner's view that computers generate *wholly new* ethical problems, for she did not believe that this was true. As a result, Maner and Johnson began discussing ethics cases that allegedly involved *new* problems brought about by computers. In these discussions, Johnson granted that computers did indeed transform old ethics problems in interesting and important ways — that is, “give them a new twist” — but she did *not* agree that computers generated *ethically unique* problems that had never been seen before. The resulting Maner-Johnson discussion initiated a fruitful series of comments and publications on the nature and uniqueness of computer ethics — a series of scholarly exchanges that started with Maner and Johnson and later spread to other scholars. The following passage, from Maner's ETHICOMP95 keynote address, drew a number of other people into the discussion:

I have tried to show that there are issues and problems that are unique to computer ethics. For all of these issues, there was an essential involvement of computing technology. Except for this technology, these issues would not have arisen, or would not have arisen in their highly altered form. The failure to find satisfactory non-computer analogies testifies to the uniqueness of these issues. The lack of an adequate analogy, in turn, has interesting moral consequences. Normally, when we confront unfamiliar ethical problems, we use analogies to build conceptual bridges to similar situations we have encountered in the past. Then we try to transfer moral intuitions across the bridge, from the analog case to our current situation. Lack of an effective analogy forces us to discover new moral values, formulate new moral principles, develop new policies, and find new ways to think about the issues presented to us. (Maner 1996, p. 152)

Over the decade that followed this provocative passage, the extended "uniqueness debate" led to a number of useful contributions to computer and information ethics. (For some example publications, see Johnson 1985, 1994, 1999, 2001; Maner 1980, 1996, 1999; Gorniak-Kocikowska 1996; Tavani 2002, 2005; Himma 2003; Floridi and Sanders 2004; Mather 2005; and Bynum 2006, 2007.)

An agenda-setting textbook

By the early 1980s, Johnson had joined the staff of Rensselaer Polytechnic Institute and had secured a grant to prepare a set of teaching materials — pedagogical modules concerning computer ethics — that turned out to be very successful. She incorporated them into a textbook, *Computer Ethics*, which was published in 1985 (Johnson 1985). On page 1, she noted that computers "pose new versions of standard moral problems and moral dilemmas, exacerbating the old problems, and forcing us to apply ordinary moral norms in uncharted realms." She did *not* grant Maner's claim, however, that computers create *wholly new* ethical problems. Instead, she described computer ethics issues as old ethical problems that are "given a new twist" by computer technology.

Johnson's book *Computer Ethics* was the first major textbook in the field, and it quickly became the primary text used in computer ethics courses offered at universities in English-speaking countries. For more than a decade, her textbook set the computer ethics research agenda on topics, such as ownership of software and intellectual property, computing and privacy, responsibility of computer professionals, and fair distribution of technology and human power. In later editions (1994, 2001), Johnson added new ethical topics like "hacking" into people's computers without

their permission, computer technology for persons with disabilities, and the Internet's impact upon democracy.

Also in later editions of *Computer Ethics*, Johnson continued the “uniqueness-debate” discussion, noting for example that new information technologies provide new ways to “instrument” human actions. Because of this, she agreed with Maner that new *specific* ethics questions had been generated by computer technology — for example, “Should ownership of software be protected by law?” or “Do huge databases of personal information threaten privacy?” — but she argued that such questions are merely “new species of old moral issues”, such as protection of human privacy or ownership of intellectual property. They are *not*, she insisted, *wholly new* ethics problems requiring additions to traditional ethical theories, as Maner had claimed (Maner 1996).

1.3 An Influential Computer Ethics Theory

The year 1985 was a “watershed year” in the history of computer ethics, not only because of the appearance of Johnson's agenda-setting textbook, but also because James Moor's classic paper, “What Is Computer Ethics?” was published in a special computer-ethics issue of the journal *Metaphilosophy*.[2] There Moor provided an account of the nature of computer ethics that was broader and more

ambitious than the definitions of Maner or Johnson. He went beyond descriptions and examples of computer ethics problems by offering an explanation of *why* computing technology raises so many ethical questions compared to other kinds of technology. Moor's explanation of the revolutionary power of computer technology was that computers are "logically malleable":

Computers are logically malleable in that they can be shaped and molded to do any activity that can be characterized in terms of inputs, outputs and connecting logical operations … . Because logic applies everywhere, the potential applications of computer technology appear limitless. The computer is the nearest thing we have to a universal tool. Indeed, the limits of computers are largely the limits of our own creativity. (Moor, 1985, 269)

The logical malleability of computer technology, said Moor, makes it possible for people to do a vast number of things that they were not able to do before. Since no one could do them before, the question never arose as to whether one *ought* to do them. In addition, because they could not be done before, no laws or standards of good practice or specific ethical rules were established to govern them. Moor called such situations "policy vacuums", and some of them might generate "conceptual muddles":

A typical problem in computer ethics arises because there is a policy vacuum about how computer technology should be used. Computers provide us with new capabilities and these in turn give us new choices for action. Often, either no policies for conduct in these situations exist or existing policies seem inadequate. A central task of computer ethics is to determine what we should do in such cases, that is, formulate policies to guide our actions … . One difficulty is that along with a policy vacuum there is often a conceptual vacuum. Although a problem in computer ethics may seem clear initially, a little reflection reveals a conceptual muddle. What is needed in such cases is an analysis that provides a coherent conceptual framework within which to formulate a policy for action. (Moor, 1985, 266)

In the late 1980s, Moor's “policy vacuum” explanation of the need for computer ethics and his account of the revolutionary “logical malleability” of computer technology quickly became very influential among a growing number of computer ethics scholars. He added additional ideas in the 1990s, including the important notion of *core human values*: According to Moor, some human values — such as *life, health, happiness, security, resources, opportunities, and knowledge* — are so important to the continued survival of any community that essentially all communities do value them. Indeed, if a community did *not* value the “core values”, it soon

would cease to exist. Moor used “core values” to examine computer ethics topics like privacy and security (Moor 1997), and to add an account of justice, which he called “just consequentialism” (Moor, 1999), a theory that combines “core values” and consequentialism with Bernard Gert's deontological notion of “moral impartiality” using “the blindfold of justice” (Gert,1998).

Moor's approach to computer ethics is a practical theory that provides a broad perspective on the nature of the “information revolution”. By using the notions of “logical malleability”, “policy vacuums”, “conceptual muddles”, “core values” and “just consequentialism”, he provides the following problem-solving method:

1. Identify a policy vacuum generated by computing technology.

2. Eliminate any conceptual muddles.

3. Use the core values and the ethical resources of just consequentialism to revise existing — but inadequate — policies, or else to create *new* policies that justly eliminate the vacuum and resolve the original ethical issue.

The third step is accomplished by combining deontology and consequentialism — which traditionally have been

considered incompatible rival ethics theories — to achieve the following practical results:

> If the blindfold of justice is applied to [suggested] computing policies, some policies will be regarded as unjust by all rational, impartial people, some policies will be regarded as just by all rational, impartial people, and some will be in dispute. This approach is good enough to provide just constraints on consequentialism. We first require that all computing policies pass the impartiality test. Clearly, our computing policies should not be among those that every rational, impartial person would regard as unjust. Then we can further select policies by looking at their beneficial consequences. We are not ethically required to select policies with the best possible outcomes, but we can assess the merits of the various policies using consequentialist considerations and we may select very good ones from those that are just. (Moor, 1999, 68)

1.4 Computing and Human Values

Beginning with the computer ethics works of Norbert Wiener (1948, 1950, 1963), a common thread has run through much of the history of computer ethics; namely, concern for*protecting and advancing central human values, such a life, health, security, happiness, freedom, knowledge, resources, power and opportunity.* Thus, most of the specific issues that

Wiener dealt with are cases of defending or advancing such values. For example, by working to prevent massive unemployment caused by robotic factories, Wiener tried to preserve security, resources and opportunities for factory workers. Similarly, by arguing against the use of decision-making war-game machines, Wiener tried to diminish threats to security and peace.

This "human-values approach" to computer ethics has been very fruitful. It has served, for example, as an organizing theme for major computer-ethics conferences, such as the 1991 National Conference on Computing and Values at Southern Connecticut State University (see the section below on "exponential growth"), which was devoted to the impacts of computing upon *security, property, privacy, knowledge, freedom and opportunities*.[3] In the late 1990s, a similar approach to computer ethics, called "value-sensitive computer design", emerged based upon the insight that potential computer-ethics problems can be avoided, while new technology is under development, by *anticipating possible harm to human values and designing new technology from the very beginning in ways that prevent such harm.* (See, for example, Friedman and Nissenbaum, 1996; Friedman, 1997; Brey, 2000; Introna and Nissenbaum, 2000; Introna, 2005a; Flanagan, et al., 2007.)

1.5 Professional Ethics and Computer Ethics

In the early 1990s, a different emphasis within computer ethics was advocated by Donald Gotterbarn. He believed that computer ethics should be seen as a *professional* ethics devoted to the development and advancement of standards of good practice and codes of conduct for computing professionals. Thus, in 1991, in the article “Computer Ethics: Responsibility Regained”, Gotterbarn said:

There is little attention paid to the domain of professional ethics — the values that guide the day-to-day activities of computing professionals in their role as professionals. By computing professional I mean anyone involved in the design and development of computer artifacts. … The ethical decisions made during the development of these artifacts have a direct relationship to many of the issues discussed under the broader concept of computer ethics. (Gotterbarn, 1991)

Throughout the 1990s, with this aspect of computer ethics in mind, Gotterbarn worked with other professional-ethics advocates (for example, Keith Miller, Dianne Martin, Chuck Huff and Simon Rogerson) in a variety of projects to advance professional responsibility among computer practitioners. Even before 1991, Gotterbarn had been part of a committee of the ACM (Association for Computing Machinery) to create the third version of that organization's “Code of Ethics and

Professional Conduct" (adopted by the ACM in 1992, see Anderson, et al., 1993). Later, Gotterbarn and colleagues in the ACM and the Computer Society of the IEEE (Institute of Electrical and Electronic Engineers) developed licensing standards for software engineers. In addition, Gotterbarn headed a joint taskforce of the IEEE and ACM to create the "Software Engineering Code of Ethics and Professional Practice" (adopted by those organizations in 1999; see Gotterbarn, Miller and Rogerson, 1997).

In the late 1990s, Gotterbarn created the Software Engineering Ethics Research Institute (SEERI) at East Tennessee State University (see http://seeri.etsu.edu/); and in the early 2000s, together with Simon Rogerson, he developed a computer program called SoDIS (Software Development Impact Statements) to assist individuals, companies and organizations in the preparation of ethical "stakeholder analyses" for determining likely ethical impacts of software development projects (Gotterbarn and Rogerson, 2005). These and many other projects focused attention upon *professional responsibility* and advanced the professionalization and ethical maturation of computing practitioners. (See the bibliography below for works by R. Anderson, D. Gotterbarn, C. Huff, C. D. Martin, K. Miller, and S. Rogerson.)

Summary

In most countries of the world, the “information revolution” has altered many aspects of life significantly: commerce, employment, medicine, security, transportation, entertainment, and so on. Consequently, information and communication technology (ICT) has affected — in both good ways and bad ways — community life, family life, human relationships, education, careers, freedom, and democracy (to name just a few examples). “Computer and information ethics”, in the broadest sense of this phrase, can be understood as that branch of applied ethics which studies and analyzes such social and ethical impacts of ICT. The present essay concerns this broad new field of applied ethics.

The more specific term “computer ethics” has been used to refer to applications by professional philosophers of traditional Western theories like utilitarianism, Kantianism, or virtue ethics, to ethical cases that significantly involve computers and computer networks. “Computer ethics” also has been used to refer to a kind of professional ethics in which computer professionals apply codes of ethics and standards of good practice within their profession. In addition, other more specific names, like “cyberethics” and “Internet ethics”, have been used to refer to aspects of computer ethics associated with the Internet.

During the past several decades, the robust and rapidly growing field of computer and information ethics has generated new university courses, research professorships, research centers, conferences, workshops, professional organizations, curriculum materials, books and journals.

Exercise

1- What is the difference between laws and morals in using the computer and information?
2- Outline the History of Computer and Information Ethics.
3- “the term “computer ethics”, as it is typically used today, names only a subfield of Wiener's much broader concerns”. Comment on the previous text and explain it.

Answers

1. When observing Wiener's way of analyzing information ethics issues and trying to resolve them, we find — for example, in The Human Use of Human Beings — that he tries to assimilate new cases by applying already existing, ethically acceptable laws, rules, and practices. In any given society, there is a network of existing practices, laws, rules and principles that govern human behavior within that society.

2. In the mid 1940s, innovative developments in science and philosophy led to the creation of a new branch of ethics that would later be called “computer ethics” or “information ethics”. The founder of this new philosophical field was the American scholar Norbert Wiener, a professor of mathematics and engineering at MIT. During the Second World War, together with colleagues in America and Great Britain, Wiener helped to develop electronic computers and other new and powerful information technologies. etc..
3. Definition of Computer Ethics.

Unit 3

Computer and information ethics- B

Terrell Bynum

Learning Objectives:

By the end of this chapter students will be able to :

- know of Computer Crimes.
- analayse Topics in Computer Ethics.

Elements:

- The Foundation of Computer and Information Ethics.
- Definition of Computer Ethics.
- Sample Topics in Computer Ethics.
- Computers in the Workplace.
- Computer Crimes.
- Privacy and Anonymity.
- Intellectual Property.
- Professional Responsibility.

1.6 Uniqueness and Global Information Ethics

In 1995, in her ETHICOMP95 presentation "The Computer Revolution and the Problem of Global Ethics", Krystyna Górniak-Kocikowska, made a startling prediction (see Górniak, 1996). She argued that computer ethics eventually will evolve into a global ethic applicable in every culture on earth. According to this "Górniak hypothesis", regional ethical theories like Europe's Benthamite and Kantian systems, as well as the diverse ethical systems embedded in other cultures of the world, all derive from "local" histories and customs and are unlikely to be applicable world-wide. Computer and information ethics, on the other hand, Górniak argued, has the potential to provide a global ethic suitable for the Information Age:

- a new ethical theory is likely to emerge from computer ethics in response to the computer revolution. The newly emerging field of information ethics, therefore, is much more important than even its founders and advocates believe. (p. 177)

- The very nature of the Computer Revolution indicates that the ethic of the future will have a global character. It will be global in a spatial sense, since it will encompass the entire globe. It will also be global in the sense that it will address the totality of human actions and relations. (p.179)

- Computers do not know borders. Computer networks … have a truly global character. Hence, when we are talking about computer ethics, we are talking about the emerging global ethic. (p. 186)

- the rules of computer ethics, no matter how well thought through, will be ineffective unless respected by the vast majority of or maybe even all computer users. … In other words, computer ethics will become universal, it will be a global ethic. (p.187)

The provocative “Górniak hypothesis” was a significant contribution to the ongoing “uniqueness debate”, and it reinforced Maner's claim — which he made at the same ETHICOMP95 conference in his keynote address — that information technology “forces us to discover new moral values, formulate new moral principles, develop new policies, and find new ways to think about the issues presented to us.” (Maner 1996, p. 152) Górniak did not speculate about the globally relevant concepts and principles that would evolve from information ethics. She merely predicted that such a theory would emerge over time because of the global nature of the Internet and the resulting ethics conversation among all the cultures of the world.

1.7 Information Ethics

Some important recent developments, which began after 1995, seem to be confirming Górniak's hypothesis — in particular, the *information ethics* theory of Luciano Floridi (see, for example, Floridi, 1999 and Floridi, 2005a) and the “Flourishing Ethics” theory that combines ideas from Aristotle, Wiener, Moor and Floridi (see Section 1.8 below, and also Bynum, 2006).

In developing his information ethics theory (henceforth *FIE*), Floridi argued that the purview of computer ethics — indeed of ethics in general — should be widened to include much more than simply human beings, their actions, intentions and characters. He offered FIE as another “macroethics” (his term) which is *similar* to utilitarianism, deontologism, contractualism, and virtue ethics, because it is intended to be applicable to all ethical situations. On the other hand, IE is *different* from these more traditional Western theories because it is *not intended to replace them*, but rather to *supplement them with further ethical considerations* that go beyond the traditional theories, and that can be overridden, sometimes, by traditional ethical considerations. (Floridi, 2006)

The name ‘information ethics’ is appropriate to Floridi's theory, because it treats everything that exists as “informational” objects or processes:

> [All] entities will be described as clusters of data, that is, as informational objects. More precisely, [any existing entity] will be a discrete, self-contained, encapsulated package containing
>
> i. the appropriate data structures, which constitute the nature of the entity in question, that is, the state of the object, its unique identity and its attributes; and
>
> ii. a collection of operations, functions, or procedures, which are activated by various interactions or stimuli (that is, messages received from other objects or changes within itself) and correspondingly define how the object behaves or reacts to them.
>
> At this level of abstraction, informational systems as such, rather than just living systems in general, are raised to the role of agents and patients of any action, with environmental processes, changes and interactions equally described informationally. (Floridi 2006, 9-10)

Since everything that exists, according to FIE, is an informational object or process, he calls the totality of all that exists — the universe considered as a whole — “the

infosphere". Objects and processes in the infosphere can be significantly damaged or destroyed by altering their characteristic data structures. Such damage or destruction Floridi calls "entropy", and it results in partial "empoverishment of the infosphere". *Entropy in this sense is an evil that should be avoided or minimized*, and Floridi offers four "fundamental principles":

1. Entropy ought not to be caused in the infosphere (null law).

2. Entropy ought to be prevented in the infosphere.

3. Entropy ought to be removed from the infosphere.

4. The flourishing of informational entities as well as the whole infosphere ought to be promoted by preserving, cultivating and enriching their properties.

FIE is based upon the idea that everything in the infosphere has at least a minimum worth that should be ethically respected, even if that worth can be overridden by other considerations:

FIE suggests that there is something even more elemental than life, namely *being* — that is, the existence and flourishing of all entities and their global environment — and something more fundamental than suffering, namely *entropy* … . FIE

holds that *being*/information has an intrinsic worthiness. It substantiates this position by recognizing that any informational entity has a *Spinozian* right to persist in its own status, and a *Constructionist* right to flourish, i.e., to improve and enrich its existence and essence. (Floridi 2006, p. 11)

By construing every existing entity in the universe as "informational", with at least a minimal moral worth, FIE can supplement traditional ethical theories and go beyond them by shifting the focus of one's ethical attention away from the actions, characters, and values of human agents toward the "evil" (harm, dissolution, destruction) — "entropy" — suffered by objects and processes in the infosphere. With this approach, every existing entity — humans, other animals, plants, organizations, even non-living artifacts, electronic objects in cyberspace, pieces of intellectual property — can be interpreted as potential agents that affect other entities, and as potential patients that are affected by other entities. In this way, Floridi treats FIE as a "patient-based" non-anthropocentric ethical theory to be used in addition to the traditional "agent-based" anthropocentric ethical theories like utilitarianism, deontologism and virtue theory.

FIE, with its emphasis on "preserving and enhancing the infosphere", enables Floridi to provide, among other things, an insightful and practical ethical theory of robot behavior and

the behavior of other “artificial agents” like softbots and cyborgs. (See, for example, Floridi and Sanders, 2004.) FIE is an important component of a more ambitious project covering the entire new field of the Philosophy of Information.

1.8 Exponential Growth

The paragraphs above describe key contributions to “the history of ideas” in information and computer ethics, but the history of a discipline includes much more. The birth and development of a new academic field require cooperation among a “critical mass” of scholars, plus the creation of university courses, research centers, conferences, and academic journals. In this regard, the year 1985 was pivotal for information and computer ethics. The publication of Johnson's textbook, *Computer Ethics*, plus a special issue of the journal*Metaphilosophy* (October 1985) — including especially Moor's article “What Is Computer Ethics?” — provided excellent curriculum materials and a conceptual foundation for the field. In addition, Maner's earlier trailblazing efforts, and those of other people who had been inspired by Maner, had generated a “ready-made audience” of enthusiastic computer science and philosophy scholars. The stage was set for exponential growth.

In the United States, rapid growth occurred in information and computer ethics beginning in the mid-1980s. In 1987 the

Research Center on Computing & Society (RCCS) was founded at Southern Connecticut State University. Shortly thereafter, the Director (the present author) joined with Walter Maner to organize "the National Conference on Computing and Values" (NCCV), an NSF-funded conference to bring together computer scientists, philosophers, public policy makers, lawyers, journalists, sociologists, psychologists, business people, and others. The goal was to examine and push forward some of the major sub-areas of information and computer ethics; namely, computer security, computers and privacy, ownership of intellectual property, computing for persons with disabilities, and the teaching of computer ethics. More than a dozen scholars from several different disciplines joined with Bynum and Maner to plan NCCV, which occurred in August 1991 at Southern Connecticut State University. Four hundred people from thirty-two American states and seven other countries attended; and the conference generated a wealth of new computer ethics materials — monographs, video programs and an extensive bibliography — that were disseminated to hundreds of colleges and universities during the following two years.

In that same decade, professional ethics advocates, such as Donald Gotterbarn, Keith Miller and Dianne Martin — and professional organizations, such as Computer Professionals for Social Responsibility (www.cpsr.org), the Electronic Frontier

Foundation (www.eff.org), and the Special Interest Group on Computing and Society (SIGCAS) of the ACM — spearheaded projects focused upon professional responsibility for computer practitioners. Information and computer ethics became a required component of undergraduate computer science programs that were nationally accredited by the Computer Sciences Accreditation Board. In addition, the annual "Computers, Freedom and Privacy" conferences began in 1991 (see www.cfp.org), and the ACM adopted a new version of its Code of Ethics and Professional Conduct in 1992.

In 1995, rapid growth of information and computer ethics spread to Europe when the present author joined with Simon Rogerson of De Montfort University in Leicester, England to create the Centre for Computing and Social Responsibility (www.ccsr.cse.dmu.ac.uk) and to organize the first computer ethics conference in Europe, ETHICOMP95. That conference included attendees from fourteen different countries, mostly in Europe, and it became a key factor in generating a "critical mass" of computer ethics scholars in Europe. After 1995, every 18 months, another ETHICOMP conference was held in a different European country, including Spain (1996), the Netherlands (1998), Italy (1999), Poland (2001), Portugal (2002), Greece (2004) and Sweden (2005). In addition, in 1999, with assistance from Bynum and Rogerson, the

Australian scholars John Weckert and Christopher Simpson created the Australian Institute of Computer Ethics (aice.net.au) and organized AICEC99 (Melbourne, Australia), which was the first international computer ethics conference south of the equator. In 2007 Rogerson and Bynum also headed ETHICOMP2007 in Tokyo, Japan and an ETHICOMP "Working Conference" in Kunming, China to help spread interest in information ethics to Asia.

A central figure in the rapid growth of information and computer ethics in Europe was Simon Rogerson. In addition to creating the Centre for Computing and Social Responsibility at De Montfort University and co-heading the influential ETHICOMP conferences, he also (1) added computer ethics to De Montfort University's curriculum, (2) created a graduate program with advanced computer ethics degrees, including the PhD, and (3) co-founded and co-edited (with Ben Fairweather) two computer ethics journals — *The Journal of Information, Communication and Ethics in Society* in 2003 (see the link the Other Internet Resources section), and the electronic journal *The ETHICOMP Journal* in 2004 (see Other Internet Resources). Rogerson also served on the Information Technology Committee of the British Parliament, and participated in several computer ethics projects with agencies of the European Union.

Other important computer ethics developments in Europe in the late 1990s and early 2000s included, for example, (1) Luciano Floridi's creation of the Information Ethics Research Group at Oxford University in the mid 1990s; (2) Jeroen van den Hoven's founding, in 1997, of the CEPE (Computer Ethics: Philosophical Enquiry) series of computer ethics conferences, which occur alternately in Europe and America; (3) van den Hoven's creation of the journal *Ethics and Information Technology* in 1999; (4) Rafael Capurro's creation of the International Center for Information Ethics (icie.zkm.de) in 1999; (5) Capurro's creation of the journal *International Review of Information Ethics* in 2004; and Bernd Carsten Stahl's creation of *The International Journal of Technology and Human Interaction* in 2005.

In summary, since 1985 computer ethics developments have proliferated exponentially with new conferences and conference series, new organizations, new research centers, new journals, textbooks, web sites, university courses, university degree programs, and distinguished professorships. Additional “sub-fields” and topics in information and computer ethics continually emerge as information technology itself grows and proliferates. Recent new topics include on-line ethics, “agent” ethics (robots, softbots), cyborg ethics (part human, part machine), the “open source movement”, electronic government, global information ethics, information

technology and genetics, computing for developing countries, computing and terrorism, ethics and nanotechnology, to name only a few examples. (For specific publications and examples, see the list of selected resources below.)

Compared to many other scholarly disciplines, the field of computer ethics is very young. It has existed only since the late 1940s when Norbert Wiener created it. During the first three decades, it grew very little because Wiener's insights were far ahead of everyone else's. In the past 25 years, however, information and computer ethics has grown exponentially in the industrialized world, and the rest of the world has begun to take notice.

2. Example Topics in Computer Ethics

No matter which re-definition of computer ethics one chooses, the best way to understand the nature of the field is through some representative examples of the issues and problems that have attracted research and scholarship. Consider, for example, the following topics:

Computers in the Workplace

Computer Crime

Privacy and Anonymity

Intellectual Property

Professional Responsibility

Globalization

The Metaethics of Computer Ethics

(See also the wide range of topics included in the recent anthology [Spinello and Tavani, 2001].)

2.1 Computers in the Workplace

As a “universal tool” that can, in principle, perform almost any task, computers obviously pose a threat to jobs. Although they occasionally need repair, computers don't require sleep, they don't get tired, they don't go home ill or take time off for rest and relaxation. At the same time, computers are often far more efficient than humans in performing many tasks. Therefore, economic incentives to replace humans with computerized devices are very high. Indeed, in the industrialized world many workers already have been replaced by computerized devices — bank tellers, auto workers, telephone operators, typists, graphic artists, security guards, assembly-line workers, and on and on. In addition, even professionals like medical doctors, lawyers, teachers, accountants and psychologists are finding that computers can

perform many of their traditional professional duties quite effectively.

The employment outlook, however, is not all bad. Consider, for example, the fact that the computer industry already has generated a wide variety of new jobs: hardware engineers, software engineers, systems analysts, webmasters, information technology teachers, computer sales clerks, and so on. Thus it appears that, in the short run, computer-generated unemployment will be an important social problem; but in the long run, information technology will create many more jobs than it eliminates.

Even when a job is not eliminated by computers, it can be radically altered. For example, airline pilots still sit at the controls of commercial airplanes; but during much of a flight the pilot simply watches as a computer flies the plane. Similarly, those who prepare food in restaurants or make products in factories may still have jobs; but often they simply push buttons and watch as computerized devices actually perform the needed tasks. In this way, it is possible for computers to cause “de-skilling” of workers, turning them into passive observers and button pushers. Again, however, the picture is not all bad because computers also have generated new jobs which require new sophisticated skills to perform —

for example, “computer assisted drafting” and “keyhole” surgery.

Another workplace issue concerns health and safety. As Forester and Morrison point out [Forester and Morrison, 140-72, Chapter 8], when information technology is introduced into a workplace, it is important to consider likely impacts upon health and job satisfaction of workers who will use it. It is possible, for example, that such workers will feel stressed trying to keep up with high-speed computerized devices — or they may be injured by repeating the same physical movement over and over — or their health may be threatened by radiation emanating from computer monitors. These are just a few of the social and ethical issues that arise when information technology is introduced into the workplace.

2.2 Computer Crime

In this era of computer “viruses” and international spying by “hackers” who are thousands of miles away, it is clear that computer security is a topic of concern in the field of Computer Ethics. The problem is not so much the physical security of the hardware (protecting it from theft, fire, flood, etc.), but rather “logical security”, which Spafford, Heaphy and Ferbrache [Spafford, et al, 1989] divide into five aspects:

1. Privacy and confidentiality

2. Integrity — assuring that data and programs are not modified without proper authority

3. Unimpaired service

4. Consistency — ensuring that the data and behavior we see today will be the same tomorrow

5. Controlling access to resources

Malicious kinds of software, or “programmed threats”, provide a significant challenge to computer security. These include “viruses”, which cannot run on their own, but rather are inserted into other computer programs; “worms” which can move from machine to machine across networks, and may have parts of themselves running on different machines; “Trojan horses” which appear to be one sort of program, but actually are doing damage behind the scenes; “logic bombs” which check for particular conditions and then execute when those conditions arise; and “bacteria” or “rabbits” which multiply rapidly and fill up the computer's memory.

Computer crimes, such as embezzlement or planting of logic bombs, are normally committed by trusted personnel who have permission to use the computer system. Computer security, therefore, must also be concerned with the actions of trusted computer users.

Another major risk to computer security is the so-called “hacker” who breaks into someone's computer system without permission. Some hackers intentionally steal data or commit vandalism, while others merely “explore” the system to see how it works and what files it contains. These “explorers” often claim to be benevolent defenders of freedom and fighters against rip-offs by major corporations or spying by government agents. These self-appointed vigilantes of cyberspace say they do no harm, and claim to be helpful to society by exposing security risks. However every act of hacking is harmful, because any known successful penetration of a computer system requires the owner to thoroughly check for damaged or lost data and programs. Even if the hacker did indeed make no changes, the computer's owner must run through a costly and time-consuming investigation of the compromised system [Spafford, 1992].

2.3 Privacy and Anonymity

One of the earliest computer ethics topics to arouse public interest was privacy. For example, in the mid-1960s the American government already had created large databases of information about private citizens (census data, tax records, military service records, welfare records, and so on). In the US Congress, bills were introduced to assign a personal identification number to every citizen and then gather all the

government's data about each citizen under the corresponding ID number. A public outcry about “big-brother government” caused Congress to scrap this plan and led the US President to appoint committees to recommend privacy legislation. In the early 1970s, major computer privacy laws were passed in the USA. Ever since then, computer-threatened privacy has remained as a topic of public concern. The ease and efficiency with which computers and computer networks can be used to gather, store, search, compare, retrieve and share personal information make computer technology especially threatening to anyone who wishes to keep various kinds of “sensitive” information (e.g., medical records) out of the public domain or out of the hands of those who are perceived as potential threats. During the past decade, commercialization and rapid growth of the internet; the rise of the world-wide-web; increasing “user-friendliness” and processing power of computers; and decreasing costs of computer technology have led to new privacy issues, such as data-mining, data matching, recording of “click trails” on the web, and so on [see Tavani, 1999].

The variety of privacy-related issues generated by computer technology has led philosophers and other thinkers to re-examine the concept of privacy itself. Since the mid-1960s, for example, a number of scholars have elaborated a theory of privacy defined as “control over personal

information" (see, for example, [Westin, 1967], [Miller, 1971], [Fried, 1984] and [Elgesem, 1996]). On the other hand, philosophers Moor and Tavani have argued that control of personal information is insufficient to establish or protect privacy, and "the concept of privacy itself is best defined in terms of restricted access, not control" [Tavani and Moor, 2001] (see also [Moor, 1997]). In addition, Nissenbaum has argued that there is even a sense of privacy in public spaces, or circumstances "other than the intimate." An adequate definition of privacy, therefore, must take account of "privacy in public" [Nissenbaum, 1998]. As computer technology rapidly advances — creating ever new possibilities for compiling, storing, accessing and analyzing information — philosophical debates about the meaning of "privacy" will likely continue (see also [Introna, 1997]).

Questions of anonymity on the internet are sometimes discussed in the same context with questions of privacy and the internet, because anonymity can provide many of the same benefits as privacy. For example, if someone is using the internet to obtain medical or psychological counseling, or to discuss sensitive topics (for example, AIDS, abortion, gay rights, venereal disease, political dissent), anonymity can afford protection similar to that of privacy. Similarly, both anonymity and privacy on the internet can be helpful in preserving human values such as security, mental health, self-

fulfillment and peace of mind. Unfortunately, privacy and anonymity also can be exploited to facilitate unwanted and undesirable computer-aided activities in cyberspace, such as money laundering, drug trading, terrorism, or preying upon the vulnerable (see [Marx, 2001] and [Nissenbaum, 1999]).

2.4 Intellectual Property

One of the more controversial areas of computer ethics concerns the intellectual property rights connected with software ownership. Some people, like Richard Stallman who started the Free Software Foundation, believe that software ownership should not be allowed at all. He claims that all information should be free, and all programs should be available for copying, studying and modifying by anyone who wishes to do so [Stallman, 1993]. Others argue that software companies or programmers would not invest weeks and months of work and significant funds in the development of software if they could not get the investment back in the form of license fees or sales [Johnson, 1992]. Today's software industry is a multibillion dollar part of the economy; and software companies claim to lose billions of dollars per year through illegal copying ("software piracy"). Many people think that software should be ownable, but "casual copying" of personally owned programs for one's friends should also be permitted (see [Nissenbaum, 1995]). The software industry

claims that millions of dollars in sales are lost because of such copying. Ownership is a complex matter, since there are several different aspects of software that can be owned and three different types of ownership: copyrights, trade secrets, and patents. One can own the following aspects of a program:

1. The "source code" which is written by the programmer(s) in a high-level computer language like Java or C++.

2. The "object code", which is a machine-language translation of the source code.

3. The "algorithm", which is the sequence of machine commands that the source code and object code represent.

4. The "look and feel" of a program, which is the way the program appears on the screen and interfaces with users.

A very controversial issue today is owning a patent on a computer algorithm. A patent provides an exclusive monopoly on the use of the patented item, so the owner of an algorithm can deny others use of the mathematical formulas that are part of the algorithm. Mathematicians and scientists are outraged, claiming that algorithm patents effectively remove parts of mathematics from the public domain, and thereby threaten to cripple science. In addition, running a preliminary "patent search" to make sure that your "new" program does not violate

anyone's software patent is a costly and time-consuming process. As a result, only very large companies with big budgets can afford to run such a search. This effectively eliminates many small software companies, stifling competition and decreasing the variety of programs available to the society [The League for Programming Freedom, 1992].

2.5 Professional Responsibility

Computer professionals have specialized knowledge and often have positions with authority and respect in the community. For this reason, they are able to have a significant impact upon the world, including many of the things that people value. Along with such power to change the world comes the duty to exercise that power responsibly [Gotterbarn, 2001]. Computer professionals find themselves in a variety of professional relationships with other people [Johnson, 1994], including:

Employer	Employee
Client	Professional
professional	Professional
Society	Professional

These relationships involve a diversity of interests, and sometimes these interests can come into conflict with each other. Responsible computer professionals, therefore, will be aware of possible conflicts of interest and try to avoid them.

Professional organizations in the USA, like the Association for Computing Machinery (ACM) and the Institute of Electrical and Electronic Engineers (IEEE), have established codes of ethics, curriculum guidelines and accreditation requirements to help computer professionals understand and manage ethical responsibilities. For example, in 1991 a Joint Curriculum Task Force of the ACM and IEEE adopted a set of guidelines ("Curriculum 1991") for college programs in computer science. The guidelines say that a significant component of computer ethics (in the broad sense) should be included in undergraduate education in computer science [Turner, 1991].

In addition, both the ACM and IEEE have adopted Codes of Ethics for their members. The most recent ACM Code (1992), for example, includes "general moral imperatives", such as "avoid harm to others" and "be honest and trustworthy". And also included are "more specific professional responsibilities" like "acquire and maintain professional competence" and "know and respect existing laws pertaining to professional work." The IEEE Code of Ethics

(1990) includes such principles as “avoid real or perceived conflicts of interest whenever possible” and “be honest and realistic in stating claims or estimates based on available data.”

The Accreditation Board for Engineering Technologies (ABET) has long required an ethics component in the computer engineering curriculum. And in 1991, the Computer Sciences Accreditation Commission/Computer Sciences Accreditation Board (CSAC/CSAB) also adopted the requirement that a significant component of computer ethics be included in any computer sciences degree granting program that is nationally accredited [Conry, 1992].

It is clear that professional organizations in computer science recognize and insist upon standards of professional responsibility for their members.

2.6 Globalization

Computer ethics today is rapidly evolving into a broader and even more important field, which might reasonably be called “global information ethics”. Global networks like the Internet and especially the world-wide-web are connecting people all over the earth. As Krystyna Gorniak-Kocikowska perceptively notes in her paper, “The Computer Revolution and the Problem of Global Ethics” [Gorniak-Kocikowska, 1996], for the first time in history, efforts to develop mutually

agreed standards of conduct, and efforts to advance and defend human values, are being made in a truly global context. So, for the first time in the history of the earth, ethics and values will be debated and transformed in a context that is not limited to a particular geographic region, or constrained by a specific religion or culture. This may very well be one of the most important social developments in history. Consider just a few of the global issues:

Global Laws

If computer users in the United States, for example, wish to protect their freedom of speech on the internet, whose laws apply? Nearly two hundred countries are already interconnected by the internet, so the United States Constitution (with its First Amendment protection for freedom of speech) is just a "local law" on the internet — it does not apply to the rest of the world. How can issues like freedom of speech, control of "pornography", protection of intellectual property, invasions of privacy, and many others to be governed by law when so many countries are involved? If a citizen in a European country, for example, has internet dealings with someone in a far-away land, and the government of that land considers those dealings to be illegal, can the European be tried by the courts in the far-away country?

Global Cyberbusiness

The world is very close to having technology that can provide electronic privacy and security on the internet sufficient to safely conduct international business transactions. Once this technology is in place, there will be a rapid expansion of global "cyberbusiness". Nations with a technological infrastructure already in place will enjoy rapid economic growth, while the rest of the world lags behind. What will be the political and economic fallout from rapid growth of global cyberbusiness? Will accepted business practices in one part of the world be perceived as "cheating" or "fraud" in other parts of the world? Will a few wealthy nations widen the already big gap between rich and poor? Will political and even military confrontations emerge?

Global Education

If inexpensive access to the global information net is provided to rich and poor alike — to poverty-stricken people in ghettos, to poor nations in the "third world", etc. — for the first time in history, nearly everyone on earth will have access to daily news from a free press; to texts, documents and art works from great libraries and museums of the world; to political, religious and social practices of peoples everywhere.

What will be the impact of this sudden and profound “global education” upon political dictatorships, isolated communities, coherent cultures, religious practices, etc.? As great universities of the world begin to offer degrees and knowledge modules via the internet, will “lesser” universities be damaged or even forced out of business?

Information Rich and Information Poor

The gap between rich and poor nations, and even between rich and poor citizens in industrialized countries, is already disturbingly wide. As educational opportunities, business and employment opportunities, medical services and many other necessities of life move more and more into cyberspace, will gaps between the rich and the poor become even worse?

Exercise

1. What is Computer Ethics ? explain the history of the term.
2. “In this era of computer “viruses” and international spying by “hackers” who are thousands of miles away, it is clear that computer security is a topic of concern in the field of Computer Ethics”. Comment on the previous text and explain some examples in Computer Crimes.
3. Explain the relationship between computer ethics and Globalization.

Answers

1- In 1995, in her ETHICOMP95 presentation “The Computer Revolution and the Problem of Global Ethics”, Krystyna Górniak-Kocikowska, made a startling prediction (see Górniak, 1996)., a new ethical theory is likely to emerge from computer ethics in response to the computer revolution, The very nature of the Computer Revolution indicates that the ethic of the future will have a global character, Computers do not know borders. Computer networks, the rules of computer ethics, no matter how well thought through, will be ineffective unless respected by the vast majority of or maybe even all computer users,etc..

2- Computer crime : In this era of computer “viruses” and international spying by “hackers” who are thousands of miles away, it is clear that computer security is a topic of concern in the field of Computer Ethics.etc..
Globalization , Global Laws , Global Cyberbusiness

Unit 4

Digital Media Ethics

Stephen J. A. Ward

Learning Objectives

By the end of this chapter students will be able to:

- Ø define Media Ethics.
- Ø apply media ethics in their own life.

Elements:

- Ø A revolution in ethics.
- Ø Layered journalism.
- Ø Difficult questions for digital media ethics.
- Ø Ethics of images.

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A revolution in ethics

A media revolution is transforming, fundamentally and irrevocably, the nature of journalism and its ethics. The means to publish is now in the hands of citizens, while the internet encourages new forms of journalism that are interactive and immediate.

Our media ecology is a chaotic landscape evolving at a furious pace. Professional journalists share the journalistic sphere with tweeters, bloggers, citizen journalists, and social media users.

Amid every revolution, new possibilities emerge while old practices are threatened. Today is no exception. The economics of professional journalism struggles as audiences migrate online. Shrinkage of newsrooms creates concern for the future of journalism. Yet these fears also prompt experiments in journalism, such as non-profit centers of investigative journalism.

A central question is to what extent existing media ethics is suitable for today's and tomorrow's news media that is immediate, interactive and "always on" – a journalism of amateurs and professionals. Most of the principles were developed over the past century, originating in the

construction of professional, objective ethics for mass commercial newspapers in the late 19th century.

We are moving towards a mixed news media – a news media citizen and professional journalism across many media platforms. This new mixed news media requires a new mixed media ethics – guidelines that apply to amateur and professional whether they blog, Tweet, broadcast or write for newspapers. Media ethics needs to be rethought and reinvented for the media of today, not of yesteryear.

Tensions on two levels

The changes challenge the foundations of media ethics. The challenge runs deeper than debates about one or another principle, such as objectivity. The challenge is greater than specific problems, such as how newsrooms can verify content from citizens. The revolution requires us to rethink assumptions. What can ethics mean for a profession that must provide instant news and analysis; where everyone with a modem is a publisher?

The media revolution has created ethical tensions on two levels.

- On the first level, there is a tension between traditional journalism and online journalism. The culture of traditional journalism, with its values of accuracy, pre-publication

verification, balance, impartiality, and gate-keeping, rubs up against the culture of online journalism which emphasizes immediacy, transparency, partiality, non-professional journalists and post-publication correction.

- On the second level, there is a tension between parochial and global journalism. If journalism has global impact, what are its global responsibilities? Should media ethics reformulate its aims and norms so as to guide a journalism that is now global in reach and impact? What would that look like?

The challenge for today's media ethics can be summarized by the question: Whither ethics in a world of multi-media, global journalism? Media ethics must do more than point out these tensions. Theoretically, it must untangle the conflicts between values. It must decide which principles should be preserved or invented. Practically, it should provide new standards to guide online or offline journalism.

Layered journalism

What would an integrated ethics look like?

It will be the ethics of the integrated newsroom, a newsroom that practices layered journalism. Layered journalism brings together different forms of journalism and different types of journalists to produce a multi-media offering

of professional-styled news and analysis combined with citizen journalism and interactive chat.

The newsroom will be layered vertically and horizontally.

Vertically, there will be many layers of editorial positions. There will be citizen journalists and bloggers in the newsroom, or closely associated with the newsroom. Many contributors will work from countries around the world. Some will write for free, some will be equivalent to paid freelancers, others will be regular commentators.

In addition, there will be different types of editors. Some editors will work with these new journalists, while other editors will deal with unsolicited images and text sent by citizens via email, web sites, and twitter. There will be editors or "community producers" charged with going out to neighborhoods to help citizens use media to produce their own stories.

Horizontally, the future newsroom will be layered in terms of the kinds of journalism it produces, from print and broadcast sections to online production centers.

Newsrooms in the past have had vertical and horizontal layers. Newspaper newsrooms have ranged vertically from the editor in-chief at the top to the cub reporter on the bottom. Horizontally, large mainstream newsrooms have produced

several types of journalism, both print and broadcast. However, future newsrooms will have additional and different layers. Some news sites will continue to be operated by a few people dedicated only to one format, such as blogging. But a substantial portion of the new mainstream will consist of these complex, layered organizations.

Layered journalism will confront two types of problems. First, there will be 'vertical' ethical questions about how the different layers of the newsroom, from professional editors to citizen freelancers, should interact to produce responsible journalism. For example, by what standards will professional editors evaluate the contributions of citizen journalists? Second, there will be 'horizontal' questions about the norms for the various newsroom sections.

Difficult questions for digital media ethics

Who is a journalist?

The 'democratization' of media – technology that allows citizens to engage in journalism and publication of many kinds – blurs the identity of journalists and the idea of what constitutes journalism.

In the previous century, journalists were a clearly defined group. For the most part, they were professionals who wrote for major mainstream newspapers and broadcasters. The

public had no great difficulty in identifying members of the "press."

Today, citizens without journalistic training and who do not work for mainstream media calls themselves journalists, or write in ways that fall under the general description of a journalists as someone who regularly writes on public issues for a public or audience.

It is not always clear whether the term "journalist" begins or ends. If someone does what appears to be journalism, but refuses the label 'journalist' is he or she a journalist? If comedian Jon Stewart refuses to call himself a journalist, but magazines refer to him as an influential journalist (or refers to him as someone who does engage in journalism) is Stewart a journalist?

Is a person expressing their opinions on their Facebook site a journalist?

What is journalism?

A lack of clarity over who is a journalist leads to definitional disputes over who is doing journalism. That leads to the question: What is journalism? Many people believe, "What is journalism?" or "Is he or she doing journalism?" is a more important question than whether who can call themselves a journalist.

At least three approaches to this question are possible – skeptical, empirical, and normative. Skeptically, one dismisses the question itself as unimportant. For example, one might say that anyone can be a journalist, and it is not worth arguing over who gets to call themselves a journalist. One is skeptical about attempts to define journalism.

Empirically, there is a more systematic and careful approach to the question. We can look at clear examples of journalism over history and note the types of activities in which journalists engaged, e.g. gathering information, editing stories, publishing news and opinion. Then we use these features to provide a definition of journalism that separates it from novel writing, storytelling, or editing information for a government database.

The normative approach insists that writers should *not* be called journalists unless they have highly developed skills, acquired usually through training or formal education, and unless they honor certain ethical norms.

The skills include investigative capabilities, research skills, facility with media technology of media, knowledge of how institutions work, and highly developed communication skills. The ethical norms include a commitment to accuracy, verification, truth, and so on.

The normative approach is based on an ideal view of journalism as accurately and responsibly informing the public. One defines journalism by considering the best examples of journalism and the practices of the best journalists.

A writer who has these skills and these ethical commitments is capable of publishing good (well-crafted, well-researched) and ethically responsible journalism. Persons who do not meet these normative requirements may call themselves journalists but they are not considered journalists from this normative perspective. They are at irresponsible, second-rate, or incompetent writers seeking to be journalists, or pretending to be journalists.

Anonymity

Anonymity is accepted more readily online than in mainstream news media. Newspapers usually require the writers of letters to the editor to identify themselves. Codes of mainstream media ethics caution journalists to use anonymous sources sparingly and only if certain rules are followed. The codes warn journalists that people may use anonymity to take unfair or untrue "potshots" at other people, for self-interested reasons.

Online, many commentary and "chat" areas do not require anonymity. Online users resist demands from web site and

blogs to register and identify themselves. Anonymity is praised as allowing freedom of speech and sometimes helping to expose wrong doing. Critics say it encourages irresponsible and harmful comments. Mainstream media contradict themselves when they allow anonymity online but refuse anonymity in their newspapers and broadcast programs.

The ethical question is: When is anonymity ethically permissible and is it inconsistent for media to enforce different rules on anonymity for different media platforms? What should be the ethical guidelines for anonymity offline and online?

Speed, rumor and corrections

Reports and images circulate the globe with amazing speed via Twitter, YouTube, Facebook, blogs, cell phones, and email. Speed puts pressure on newsrooms to publish stories before they are adequately checked and verified as to the source of the story and the reliability of the alleged facts. Major news organizations too often pick up rumors online. Sometimes, the impact of publishing an online rumor is not world shaking – a false report that a hockey coach has been fired. But a media that thrives on speed and "sharing" creates the potential for great harm. For instance, news organizations might be tempted to repeat a false rumor that terrorists had taken control of the London underground, or that a nuclear

power plant had just experienced a ‘meltdown’ and dangerous gases were blowing towards Chicago. These false reports could induce panic, causes accidents, prompt military action and so on.

A related problem, created by new media, is how to handle errors and corrections when reports and commentary are constantly being updated. Increasingly, journalists are blogging ‘live’ about sports games, news events, and breaking stories. Inevitably, when one works at this speed, errors are made, from misspelling words to making factual errors. Should news organizations go back and correct all of these mistakes which populate mountains of material? Or should they correct errors later and not leave a trace of the original mistake –what is called “unpublishing?”

The ethical challenge is to articulate guidelines for dealing with rumors and corrections in an online world that are consistent with the principles of accuracy, verification, and transparency.

Impartiality, conflicts of interest, and partisan journalism

New media encourages people to express their opinion and share their thoughts candidly.

Many bloggers take pride in speaking their mind, compared to any mainstream reporters who must cover events impartially. Many online journalists see themselves as partisans or activists for causes or political movements, and reject the idea of objective or neutral analysis.

Partial or partisan journalism comes in at least two kinds: One kind is an opinion journalism that enjoys commenting upon events and issues, with or without verification. Another form is partisan journalism which uses media as a mouthpiece for political parties and movements. To some extent, we are seeing a revival (or return) to an opinion/partisan journalism that was popular before the rise of objective reporting in the early 1900s.

Both opinion and partisan journalism have long roots in journalism history. However, their revival in an online world raises serious ethical conundrums for current media ethics. Should objectivity be abandoned by all journalists? Which is best for a vigorous and healthy democracy – impartial journalism or partisan journalism?

To make matters more contentious, some of the new exponents of opinion and impartial journalism not only question objectivity, they question the long-standing principle that journalists should be independent from the groups they write about. For example, some partisan journalists reject

charges of a journalistic “conflict of interest” when they accept money from groups, or make donations to political parties.

Economically, mainstream newsrooms who uphold traditional principles such as impartiality increasingly feel compelled to move toward a more opinionated or partisan approach to news and commentary. To be impartial is said to be boring to viewers. Audiences are said to be attracted to strong opinion and conflicts of opinion.

Even where newsrooms enforce the rules of impartiality — say by suspending a journalist for a conflict of interest or partial comment — they fail to get full public support. Some citizens and groups complain that newsroom restraints on what analysts and reporters can say about the groups they cover is censorship.

Is it good, that more and more, journalists no longer stand among the opposing groups in society and try to inform the public fairly about their perspectives but rather become part of the groups seeking to influence public opinion?

The ethical challenge is to redefine what independent journalism in the public interest means for a media where many new types of journalism are appearing and where basic principles are being challenged.

Entrepreneurial not-for-profit journalism

The declining readers and profits of mainstream media, as citizens migrate online, has caused newsrooms to shrink their staff. Some journalists doubt the continuing viability of the old economic model of a mass media based on advertising and circulation sales.

In response, many journalists have started not-for-profit newsrooms, news web sites, and centers of investigative journalism based on money from foundations and donations from citizens. Some journalists go online and ask for citizens to send them money to do stories. This trend can be called "entrepreneurial journalism" because the journalist no longer simply reports while other people (e.g. advertising staff) raise funds for their newsroom. These journalists are entrepreneurs attempting to raise funds for their new ventures.

The new ventures raise ethical questions.

How independent can such newsrooms be when they are so reliant on funds from a limited number of donors? What happens if the newsroom intends to report a negative story about one of its main funders? From whom will these

newsrooms take money? How transparent will they be about who gives them money and under what conditions?

The challenge is to construct an ethics for this new area of journalism.

Reporters using social media

Many news organizations encourage their reporters to use social media to gather information and to create a "brand" for themselves by starting their own blog, Facebook page, or Twitter account. However, online commenting can put reporters, especially beat reporters, in trouble with their editors or the people they comment about, especially if the news outlet says it provides impartial reporting. For example, a reporter who covers city hall may report dispassionately in her newspaper about a candidate for mayor. But on her blog, she may express strong opinion, saying the candidate is an unlikeable and incompetent politician. Such comments would give the candidate cause to complain about the lack of impartiality of the reporter.

The ethical challenge is to develop social media guidelines that allow reporters to explore the new media world but also to draw reasonable limits on personal commentary.

Citizen journalists and using citizen content

One of the difficult "horizontal" issues, noted above, is whether newsrooms should keep all types of journalists to the same editorial standards? For example, should citizen journalists be required to be balanced and impartial? Can journalists who operate a newsroom's web site report on a story before their colleagues, the print reporters? In other words, should print reporters be held to a higher standard of pre-publication verification?

Furthermore, as newsroom staff shrink, and the popularity of online news grows, organizations are increasingly able, and willing, to collaborate with citizens in covering disasters, accidents, and other breaking news. Citizens who capture events on their cell phones can transmit text and images to newsrooms.

Newsrooms need to put in place a process for citizen-supplied material, which may be bogus or biased. How shall sources be identified? How much vetting is necessary for different sorts of stories? Should citizen contributors be made aware of the newsroom's editorial standards?

The ethical question is whether it is possible to construct a media ethics whose norms apply consistently across all media

platforms. Or are we faced with the prospect of having different sets of norms for different media platforms?

Ethics of images

Finally, there are the new ethical issues raised by the rise of new image technology. These images include both photographs and video. Citizens and professional journalists have new and easy ways to capture and transmit images, such as cell phones linked to the internet via wireless technology. They have new technologies for altering and manipulating these images.

This convergence of ease of capture, ease of transmission, and ease of manipulation questions the traditional principles of photojournalism which were developed for non-digital capture and transmission of pictures and video.

As mentioned above, one issue is whether newsrooms can trust the easily obtained images of citizens and citizen journalists. Who is the sender and how do we know that this image is really of the event in question?

Another issue is whether a journalist or a citizen used technology to alter the photograph, e.g. to add an object to the picture or to take an object out. The manipulation of images is so tempting that mainstream newsrooms have fired a string of

photojournalists over the past decade to discourage fraudulent practices.

Even with manipulation, not all issues are clear.

Photojournalists often talk about how it is permitted to change the ‘technical’ aspects of a picture such as altering slightly the tone or color of a photo. But they draw the line at any further changes. Changing the meaning or content of the image so as to mislead viewers is considered unethical.

However, the line between a technical change and a change is meaning is not always clear. An image maker can enhance the colors of a photo until it is quite unlike the original picture of the object or the event.

Also, editors may argue that it permissible to alter images for the covers of fashion magazines (and other types of magazine) since the cover is a work of ‘art’ to attract buyers while they browse magazine stands.

Once again, there is much for ethics to do to clarify the principles of responsible image making and how those principles apply to difficult cases.

Readings on digital media ethics:

- Ess, Charles. *Digital Media Ethics*. Cambridge: Polity Press, 2009.

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- Ward, Stephen J. A. “Ethics for the New Mainstream.” In *The New Journalist: Roles, Skills, and Critical Thinking,* eds. Paul Benedetti, Tim Currie and Kim Kierans, pp. 313-326. Toronto: Emond Montgomery Publications, 2010.

- Ward, Stephen J. A. “Ethics for the New Investigative Newsroom.”

- **Summary**

- Digital media ethics deals with the distinct ethical problems, practices and norms of digital news media. Digital news media includes online journalism, blogging, digital photojournalism, citizen journalism and social media. It includes questions about how professional journalism should use this ‘new media’ to research and publish stories, as well as how to use text or images provided by citizens.

Exercise

1. Define Media ethics.
2. Explain the term of “A revolution in ethics”.
3. “Digital news media includes online journalism, blogging, digital photojournalism, citizen journalism and social media. It includes questions about how professional journalism should use this ‘new media’ to research and publish stories, as well as how to use texts or images provided by citizens.” explain the previous text.

Answers

1- Difficult questions for digital media ethics

2- A revolution in ethics

3- Layered journalism

Unit 5

Theory and Bioethics- A

John Arras

Learning Objectives:

- By the end of this chapter students will be able to:
- define Bioethics.
- know the relationship between bioethics and ethical theory.

Elements:

- The heroic phase of ethical theory and “applied ethics”.
- Problems with bioethics conceived as applied high theory.
- The ubiquity of moral pluralism.
- Vaulting theories and moral pluralism.
- The case for anti-theory in bioethics.
- Towards a “theory modest” bioethics: Defining “theory” down.
- Nonideal theory in bioethics.
- Nonideal modalities of argument.

The Author:

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Current research interests include: public health ethics, research on human subjects, international research ethics, theories of global justice and the social determinants of health, and methods of ethics.

Prior to his move to UVA in 1995, Arras was for 14 years Associate Professor of Bioethics at the Albert Einstein College of Medicine-Montefiore Medical Center, and adjunct Associate Professor of Philosophy at Barnard College/Columbia University. During those years he also served as a member of former Governor Mario Cuomo's New York State Task Force on Life and the Law. In 2005 Arras was named Alumni Association Distinguished Professor at UVA,

and in 2006 he received the Outstanding Faculty Award from the Virginia State Council on Higher Education.

1. What's theory to practice, and practice to theory?

Determining the precise nature of the relationship between bioethics and ethical theory is complicated by the absence of a canonical definition of “theory.” Although philosophers have self-consciously engaged in ethical theorizing since the days of the ancient Greeks, they have not given much thought to what it is that makes certain kinds of ethical reflection distinctly theoretical as opposed to other, more practical intellectual pursuits. So when we inquire into the nature of the relationship between bioethics and moral or political theory, it will obviously matter a great deal whether we define “theory” narrowly—restricting it to a small cluster of paradigmatic examples, such as classical or contemporary versions of utilitarianism or Kantianism—or more broadly so as to encompass many different modes of moral reflection, including feminist critiques of reproductive technologies, virtue ethics, or various conceptual and normative accounts of coercion and exploitation in biomedical research. The broader our definition of “theory,” the more commonsensical will be the claim that theory should play an important role in bioethics.

Things get even more complicated when we recall that bioethics is not a monolithic field; it encompasses a variety of distinct but interrelated activities, some of which might be more amenable to the deployment of philosophical theory than others.[2] At the most concrete and immediate level, there is clinical bioethics, which amounts to the deployment of bioethical concepts, values and methods within the domain of the hospital or clinic. The paradigmatic activity of clinical bioethics is the ethics consult, in which perplexed or worried physicians, nurses, social workers, patients or their family members call upon an ethicist (among others, e.g., psychiatrists and lawyers) for assistance in resolving an actual case. These case discussions take place in real time and they are anything but hypothetical. While those who discuss bioethics in an academic context can afford to reach the end of the hour in a state of perplexed indeterminacy, the clinical ethicist is acutely aware that the bedside is not a seminar room and that a decision must be reached.

Second, there is policy-oriented bioethics. In contrast to the clinical ethicist, who is concerned with the fate of individual patients, the bioethicist cum policy analyst is called upon to assist in the formulation of policies that will affect large numbers of people. Such policy discussions can take place on the level of individual hospitals or health systems, where administrators, medical and nursing staff, and

bioethicists debate, *inter alia*, the merits of competing policies on medical futility or do-not-resuscitate orders; or they can take place in the more rarified atmosphere of various state and national commissions charged with formulating policy on topics such as cloning, access to health care, organ transplantation, or assisted suicide. Although such commissions operate at much higher levels of generality than the clinical ethicist in the trenches, both of these kinds of bioethical activity tend to be intensely practical and result-oriented. The clinical ethicist will usually be wary of invoking philosophical or religious theory because her interlocutors usually have neither the time nor the inclination to discuss matters on this level, while the bioethicist on the national commission will soon realize the impossibility of forging a consensus with his or her peers on the basis of theory alone.

Finally, at the other end of the practice-theory spectrum, there is bioethics as a theoretical pursuit of truth, a variant unhindered by the resolutely practical constraints of the clinic and commission. The academic is free to think as deeply or to soar as high into the theoretical empyrean as she wishes. Unlike the clinical ethicist, she is unhindered by time constraints, medical custom, law, or the need to reach closure on a decision. The seminar lasts all semester, and it might serve a good educational purpose to leave one's students even more confused at the end than they were at the beginning. And

unlike the bioethicist *cum* policy analyst, the academic doesn't have to worry about finding a common language or bending to the necessities imposed by pluralism or sponsoring agencies of government. It is here within the academic domain that the relationship between philosophical-religious theory and bioethics will tend to be most explicit and most welcome, although even here bioethicists need to be responsive to the above constraints should they desire the fruits of their intellectual labors eventually to have some influence on public policy. Presumably, a standard motivation for engaging in practical ethics is to influence practice.

Although I have sketched above three different kinds of activities that can all be lumped under the common rubric of “bioethics,” it should be kept in mind that each of these constituent elements of bioethics influences the others—e.g., bioethical theory can influence reasoning in policy settings, and clinical practice can sometimes prompt the theoretician to reexamine some of his basic assumptions. It should also go without saying that quite often the same individuals can and do engage in various areas of bioethical activity, alternatively, as clinicians, teachers, theoreticians, and as consultants to industry or government.

So much for preliminary remarks. Let us now move on to a more dialectical examination of the role of theory in

bioethics. We shall begin with the respective cases for and against deploying high moral theory. We will then proceed to examine the case for anti-theory in bioethics, and will close with a brief on behalf of a “theory modest,” as opposed to theory free, approach to bioethical problems. Interested readers are encouraged to consult the supplement to this entry, which offers a discursive typology of the various kinds of theory deployed in bioethics.

2. The heroic phase of ethical theory and “applied ethics”

2.1 The allure of high theory

As the era of contemporary practical ethics dawned in the early 1970s, it was natural for philosophers and religious moralists to assume that their role in the division of labor within this budding field would call for much more than the modest metaethical chores traditionally allotted to them, such as providing definitions for terms like “right” and “good” (Hare 1952). Inspired by the example of John Rawls' monumental theory of justice (1971), if not always by his methods or conclusions, practically-minded philosophers set out to vindicate not only Rawls's faith in the ability of human reason to justify a particular conception of the basic structure of society, but also their own faith, less obviously shared by Rawls, that moral and political theory could also advance debate across a whole spectrum of practical domains,

including medical practice, human experimentation, business, the environment, journalism, law, and politics. It was also quite natural for such philosophers to assume that, over and above their skill in logical criticism, their specific expertise as philosophers would consist in their knowledge of ethical theory and their ability to apply such theory to practical problems, such as paternalism in the physician-patient relationship and access to health care. Finally, they assumed a particular picture or model of ethical theorizing, according to which a vast, tightly organized system of judgments is supported by a pivotally placed keystone composed of one or two principles, such as Kant's categorical imperative. Annette Baier compares this conception of theory to a great vaulting structure (Baier 1994).

Thus dawned what we might call the "heroic" phase of practical ethics, in which philosophers attempted to tackle all manner of problems with the aid of moral and political theory. This confidence in the deployment of ethical theory prompted the authors of the leading bioethics texts and anthologies to preface their chapters on particular moral problems or themes with material introducing students to the rudiments of ethical theory, including obligatory sections on consequentialism, deontology, rights, natural law, and so on. [3] Typical examples of this trend might include Joseph Fletcher's (1974) and Peter Singer's (1999) utilitarian approaches to the whole spectrum of

bioethical issues, Alan Donagan's explicitly Kantian argument for informed consent in medical practice and research (1977), and Tristram Engelhardt's (1986) critique of redistribution in health care on the basis of libertarian premises borrowed from Robert Nozick (1974). What kinds of motivations might be adduced to explain and endorse such resort to high theory in bioethics?

Theoretical issues crop up everywhere in bioethics, and most of the ethical judgments we bring to bear on them may implicitly but ultimately commit us to some theory or other (Rachels 1998, and Darwall 2003). Most of the time, however, both in our personal lives and on the job, we manage to muddle through whatever moral puzzles might arise by appealing to virtuous habits instilled in us by our parents, or to various rules of thumb that have provided good guidance in the past, or by groping our way analogically from one case to another. Most of the time, such ethical coping mechanisms work well enough, and we get along quite well without resort to ethical theory of any kind; but sometimes they don't, and those are the occasions when we need to seek moral justification at a higher level. Sometimes the problem is unavoidably philosophical, such as the debate over abortion or the derivation and use of human stem cells. Such contested issues turn on unavoidable metaphysical questions bearing on the moral status of human embryos and fetuses. If we want to

show respect to our interlocutors on the other side of these arguments, we will need to exchange good reasons with them, and these reasons will inevitably involve theoretical propositions.

Another occasion for moving up the ladder of "justificatory ascent" (Dworkin 1997) is provided by our need to weigh, balance, and adjudicate between the conflicting demands of various mid-level principles. One alleged weakness of pluralistic theories like those of W.D. Ross or the principlism of Beauchamp and Childress is that the various principles that constitute the backbone of such theories can and often do conflict with one another; and when they do, we may need to ascend to a higher level of justification provided by a more comprehensive moral theory. Sidgwick thus famously argued in favor of utilitarianism on the ground that such a theory could help us resolve conflicts among ordinary commonsensical duties, such as duty to keep promises and the duty to rescue strangers in mortal peril, that common sense morality could not resolve on its own (1981, orig. 1884).

A similar point in favor of high theory concerns the role of rules in moral argument. Most of us, perhaps most of the time, successfully navigate moral problems arising in everyday life by means of various rules that have stood the test of time: e.g., keep your promises, do not kill, do not lie, etc. But here too,

controversies arise due to conflicting rules or to interpretive difficulties in assessing the nature, point, and weight of various rules in varying circumstances. In order to adjudicate these controversies, we need a normative standard that can articulate the nature of the rules, their respective grounds of justification, and their comparative weight in moral argument—in short, we need theory (Nussbaum 2000a).

Another virtue of theory concerns the importance of achieving consistency in our moral judgments and the value of developing a truly systematic perspective on our moral lives. But given the finite nature of our life span, the urgency of practical concerns, and the limited range of our attention, we fall far short of Dworkin's mythical judge, Hercules, who somehow manages to digest all the imaginable legal precedents in a case, all the institutional history of court and country, and discerns a coherent order in all this flotsam and jetsam with the aid of the best political philosophy available (Dworkin 1977). Usually the best we mere mortals can hope for is to illuminate a few important niches of our collective life, so we try to develop theories bearing, *inter alia*, on the nature of suffering, the physician-patient relationship, the ethical treatment of children in research, the nature and limits of private property, equal opportunity, and so on.

Here too conflicts may arise between different theories and the weight they give to different principles or values. For example, our regnant theories of the physician-patient relationship are largely dominated by the value of autonomy and the principle of respect for individual choice, but as Alan Wertheimer has shown, our standard approach to research ethics remains paternalistic in some ways that may not be defensible (forthcoming). We charge Institutional Review Boards (IRBs) with the task of protecting potential research subjects from studies that might pose “excessive” risks, and we worry that financial rewards for participation might exercise “undue influence” on subjects, especially those who are poor and socially marginalized.

Although one could attempt to simply muddle through in the face of such inconsistencies, the more rational and, some would say, the more ethically responsible choice is to strive for systematic coherence among the various theories we develop in different contexts. Although we may never arrive at the degree of systematic coherence achieved by Hercules before breakfast, we should at least try to achieve coherence among all the disparate regions of our moral experience.[4]

2.2 The allure of ideal political philosophy

In confronting questions bearing on health inequalities and inequities, bioethics will naturally seek guidance in various

contemporary theories of justice, including Rawlsian contractarianism, utilitarian cost-benefit analysis, and libertarian theories of natural rights. In order to present us with a picture of a completely just society, the theorist must make several idealizing assumptions that tend to distance that picture from social reality as we know it. Rawls, for example, famously assumes "full compliance" with the principles of justice in an ideally just society (1971/1999). Everyone would obey laws based upon the principles of equal liberty and the just allocation of social primary goods. There would be no racial discrimination, no crime, no glaring power imbalances between the sexes, and no social or economic inequalities that did not maximally advance the interests of the worst off group in society. On the global level, each nation, according to Rawls, would ideally have sufficient means to govern itself democratically (or at least "decently"), so that in working out the terms of ideal global justice, we need not worry about the sort of widespread, severe poverty and rampant corruption that currently blight the lives of billions of people (Rawls 1999b). In response to the critic who might ask what this idealized picture has to do with the social world that we actually inhabit, Rawls's response would be that the theorist must abstract from such realities precisely in order to present us with an ideal theory of justice. In a perfectly just society, there would indeed be no crime and no shameful class barriers to equal

opportunity; if there were, that society would not be perfectly just. Thus, as one philosopher has put it, ideal theory presents us with a picture of our ultimate social objective, Paradise Island (Robeyns 2008).

3.Problems with bioethics conceived as applied high theory

3.1 The ubiquity of moral pluralism

Notwithstanding the many attractions of high theory as an intellectual pursuit, the heroic phase of “applied ethics” was short lived; indeed, it was practically stillborn. Perhaps the main obstacle to the deployment of high theory to moral practice in medicine, research, and public health has been the absence of consensus on *which* theory should prevail. There are, first of all, many theories from which to choose—utilitarian, Kantian, Rawlsian, libertarian, etc.—and no clear winner among them. This would not be a serious problem were bioethics merely an academic pursuit, but the entire field of practical ethics sees itself as a potentially useful guide to practice. If all interpretive activity within the field were to depend upon the selection of a single, superior moral/political theory, practitioners hoping for assistance in dealing with real world clinical or policy problems would have to suffer a very long wait indeed. (“Be right with you, as soon as we resolve the fundamental disagreements between consequentialists and deontologists.”)

Even if philosophers could overcome their seemingly endless and intractable disagreements bearing on which high theory to adopt, we would still face the problem of balkanization and disagreement *within* our favored theory. Rule utilitarians disagree with act utilitarians; Rawlsians disagree with each other, *inter alia*, on the metric of equality and the soundness of the difference principle; and libertarians debate the stringency of their preference for liberty over social equality.

In the face of this proliferation of theoretical possibilities and the extreme unlikelihood of reaching some sort of societal consensus on the best interpretation of the best theory, James Rachels' (admittedly guarded) optimism about our ability to eventually develop an ethical theory, acceptable to all rational persons, as a basis for bioethics would appear to be misplaced (Rachels 1998). The fact that just about every self-respecting ethical theory that we know of condemns slavery—Rachels's key case study suggesting the possibility of a rational consensus on theory—still leaves us a long way from reaching consensus on a theory that could successfully adjudicate the front-burner issues in bioethics, such as access to health care, the ethics of genetic enhancement, and assisted suicide. Indeed, notwithstanding theory's unifying aims, allotting a central role to applied high theory in clinical and policy-

oriented bioethics would in all likelihood serve only to increase the amount of disagreement and pluralism in society.

3.2 Shortcomings of ideal political theory

Notwithstanding the value of doing ideal political theory, those seeking practical means of advancing justice in the here and now will immediately discover that some of the most celebrated theories of justice in current circulation are ill-suited to this purpose. This is because the authors of these theories self-consciously advance them as “ideal theories”—i.e., as theories of what a perfectly just society would look like. Although this sounds perfectly unremarkable on first hearing—what else should we expect a theory of justice to do?—attempting to glean practical advice from ideal theories proves to be an extremely problematic endeavor. Why should this be so?

The often yawning gap between our shining ideal theories and tawdry social realities engenders serious problems when we try to envision how we might get from where we are now, mired in all sorts of injustice, to Paradise Island. As many political theorists have pointed out, what might be the correct principles for an ideally just world might not be immediately and directly applicable to the actual world that we inhabit (Sen 2006, Robyns 2008) Knowing what perfect justice requires might shed little light, if any, on the sorts of questions facing

us today, such as how various feasible and politically acceptable options might be compared and ranked as incremental steps in the direction of a just society. In assuming complete compliance with just norms, ideal theory ignores the costs and benefits of various actions, which will vary with the degree of compliance. In many cases, individuals who have played fairly for a long time according to putatively less than perfectly just rules actually in place, may rightly feel unjustly treated by societal efforts to abruptly redress such deviations from perfection in one fell swoop (Simmons 2010). When contemplating two or more possible improvements to a less than ideal status quo, ideal theory might well fail to provide us with a reliable guide to ranking them against one another.

3.3 Deliberation as necessary adjunct of theory

It is also doubtful that any high level philosophical theory can be fruitfully "applied" directly so as to yield univocal answers to complex problems of professional practice and public policy. As Amy Gutmann and Dennis Thompson have persuasively argued (1998), whichever theory we happen to embrace—whether it be any flavor of utilitarianism, contractarianism, or natural law—will eventually run out of gas before it reaches the level of concrete decision making required by practical ethics. In most cases, the theorist will have to reluctantly conclude that several policy options are

sufficiently just according to their preferred theory, and then rely on a procedural-political solution afforded by some variant of so-called deliberative democracy. Perhaps the most impressive case for the limits of philosophical theory and the necessity of a procedural supplement is made by philosopher Norman Daniels, whose work on the theory of just health care has constituted an attempt, sustained over several decades, to develop an explicitly Rawlsian account of just access to health care and the social determinants of health. Although Daniels at first held out the hope that his theory, based upon a robust account of equal opportunity, could provide the requisite guidance for social policies bearing on access to health care and rationing, he now explicitly acknowledges that philosophical theory is not sufficiently fine-grained for such concrete policy making and must be supplemented by justly structured political deliberation (Daniels 1996, 144–75; Daniels 2007, ch. 4).

3.4Tension between some versions of high theory and democracy

Another problem with assigning a central role to high theory in clinical and policy-oriented bioethics emerges from the tension between the often rigorous and arcane formulations of high theory and the norms ideally governing a democratic polity. As Rawls has persuasively argued, publicity should be

a fundamental norm governing the basic law and policy of a democratic society (Rawls 1971/1999). Those norms establishing the basic structure of rights and entitlements should be capable of public articulation and acceptance by people of ordinary intelligence with restricted leisure time and inclination for theoretical pursuits. In addition to ruling out so-called “government house utilitarianism”—i.e., versions of utilitarianism that provide ultimate justification for law and policy but dare not speak their own name in public—this publicity requirement would also preclude justifications that could be comprehended and accepted only by an elite class of philosophical theoreticians (Bertram 1997). Thus, even if in theory, as it were, a theory could be developed that most closely approximated the ideal demands of morality and justice, but was incomprehensible to the average person lacking the requisite background in the esoteric intricacies of, e.g., decision theory, such a theory could not count, notwithstanding its intrinsic virtues, as an ideal norm for any democratic society. Since *ex hypothesi* its citizens do not understand it, they could not accept and consent to it speaking in their own names. They would perforce have to rely on the expertise of others, thus defeating the purpose of democracy, which requires that the basic principles of social cooperation be addressable to each and every person of normal capabilities.

This point about the tension between abstruse ethical theory and the requirements of doing bioethics in a democracy shows that one need not be a theory skeptic in order to simultaneously demote the place of high theory within bioethics and to substitute for it various modes of thought, such as versions of principlism, casuistry and narrative, that are closer to the ground and more in touch with common moral understandings (London 2001). As we shall see, some particularists argue against high normative theory on the ground that it is either impossible (Dancy 2006) or of little value. While I do not intend to affirm or deny the substance of this kind of theory skepticism here, it should be noted in passing that one can do high level theory in one's spare time and attach great value to it, while still maintaining that it should not be deployed in practical domains such as bioethics.

3.5 Vaulting theories and moral pluralism

The final problem with appeals to high philosophical theory to be mentioned here applies only to that subset of theories resembling vault-like structures held together by a small number of key principles, such as the Kantian categorical imperative or the principle of utility. Such theories have a tendency to pave over the manifest complexity of our moral lives in order to make the world safe for one or two principles. When confronted with values or principles of

ordinary morality that cannot be easily explained by such favored philosophical principles, or that appear to contradict them, the theorist is often driven to concoct explanations that have all the immediate plausibility of Ptolemaic epicycles, a discredited, Rube Goldberg account of planetary motion prior to Copernicus.[5] In discussing the problem of global hunger, for example, Peter Singer has been confronted directly by a contradiction between his version of impartial utilitarianism and common morality's permissiveness for favoring kith and kin (Singer 2004). Should we reduce ourselves to the level of marginal utility in the course of assisting the distant needy, as the theory would dictate, or can we spend large amounts of our income to support our ailing parents in decent nursing homes, as common morality would grant? Utilitarians often try to finesse such objections by means of various rule-based strategies—e.g., all of us will ultimately be better off if we are allowed to favor close relatives in certain circumstances—but such attempts to “save the phenomena” of ordinary morality often lack plausibility. As Bernard Williams once famously noted, in such circumstances consequentialists usually have “one thought too many” (Williams 1973).

In sum, then, an approach to practical ethics founded upon high ethical theory—and especially on theories exhibiting a vault-like structure—has proven to be a non-starter for bioethics, especially at the levels of clinical consultation and

social policy formation. Let us now examine the antithesis of reliance upon high theory: viz., the movement of anti-theory in bioethics.

Summary

As a species of practical ethics, bioethics exhibits a complex and contested relationship to philosophical theory. On the one hand, many who teach and write in this interdisciplinary field are philosophers who naturally believe that their specific contribution to the field—their “expertise,” if you will—consists in the application of distinctly philosophical methods, including various kinds of ethical theory, to practical problems arising in biomedical research, clinical medicine, and public health. But on the other hand, many who work in the area of bioethics, including many philosophers, are highly skeptical of the so-called “applied ethics” model of moral reasoning, in which exemplars of high theory (e.g., consequentialist utilitarianism, Kantian deontology, rights-based theories, natural law, etc.) are directly “applied” to practical problems. Indeed, most philosophically-inclined contributors to the bioethics literature have eschewed high moral theory in favor of various modes of moral reasoning falling on a spectrum between the strong particularism of various strains of casuistry or narrative ethics, on one end, and the mid-level norms of the enormously

influential “principlism” of Beauchamp and Childress, on the other (Beauchamp and Childress, 2009).[1] According to philosophers Robert K. Fullinwider (2008) and Will Kymlicka (1996), bioethics in the public domain can and should go about its business as a species of ethical reflection independently of any reliance upon high-flying ethical theory.

This article explores the controversy concerning the role of philosophical theory for practical ethics in general and bioethics in particular. The main body of this entry dialectically canvasses the respective claims for “high theory,” for particularistic “anti-theory,” and for various species of “mid-level” theorizing in between these extremes. A discursive taxonomy of the kinds of philosophical theories deployed in practical ethics—i.e., metaethical, normative, metaphysical—is provided in a supplement.

Exercise

1- Explain the relationship between bioethics and ethical theory.
2- Explain the Nonideal theory in bioethics.
3- “In confronting questions bearing on health inequalities and inequities, bioethics will naturally seek guidance in various contemporary theories of justice, including Rawlsian contractarianism, utilitarian cost-benefit analysis, and libertarian theories of natural rights. In

order to present us with a picture of a completely just society, the theorist must make several idealizing assumptions that tend to distance that picture from social reality as we know it". Explain the previous text.

Answers

4- **theory to practice, and practice to theory**
5- In addition to ideal political theory, which provides us with an objective to aim at, we also need nonideal theory, which takes account of messy realities on the ground in charting a practical course towards that objective.. Sufficiently gradual in its proposed transition from a less than fully just society to a more just state of affairs.. Likely to be effective as part of a strategy towards the elimination of injustice… Directed at remedying those social injustices with the greatest priority.etc..
6- The allure of ideal political philosophy

Unit 6

Theory and Bioethics- B

John Arras

Learning Objectives:

By the end of this chapter students will be able to:

- Ø know anti-theoretical movements in bioethics.
- Ø know Vaulting theories and moral pluralism.

Elements:

- Ø The heroic phase of ethical theory and "applied ethics".
- Ø Problems with bioethics conceived as applied high theory.
- Ø The ubiquity of moral pluralism.
- Ø Vaulting theories and moral pluralism.
- Ø The case for anti-theory in bioethics.
- Ø Towards a "theory modest" bioethics: Defining "theory" down.
- Ø Nonideal theory in bioethics.
- Ø Nonideal modalities of argument.

4. The case for anti-theory in bioethics

At the other extreme, bioethics has witnessed the emergence of several interesting varieties of anti-theory, including various strains or combinations of casuistry, narrative ethics, feminism, and pragmatism. Although each of these alternative methodological approaches features more moderate variants that reserve a legitimate place for moral principles and even for some kinds of theory, their stronger anti-theory incarnations unite in rejecting any justificatory role either for high moral theory or mid-level moral principles.

Whereas theorists tend to favor top-down, deductivist modes of thinking, the anti-theorists embrace bottom-up (but not too far up) modalities of thought, such as common law jurisprudence in which the factual particularities of the case take center stage (Arras 1990). Whereas theorists tend to emphasize the capacity of our ordinary moral experience to be neatly ordered and systematized, the anti-theorists emphasize the cultural embeddedness, particularities, and ineradicable untidiness of our moral lives (Elliott 1999). And whereas theorists aspire to construct symmetrical cathedrals of normative thought, the anti-theorists tend to conceive of the moral life as Wittgenstein conceived of language itself, i.e., as a haphazardly evolving city consisting of a maze of ever-expanding little streets, alleyways and squares.[6]

According to Robert K. Fullinwider (2007), a partisan of the anti-theoretical wing of practical ethics, the right way to think about public policy is to think about public policy, not about metaphysics, epistemology, or normative theory. He believes that, apart from training in clear analytical thinking, most of the contents of the philosopher's standard-issue toolkit are decidedly ill-suited to the task of practical ethics. Dismissing applied moral theory as “an occupational hazard” of philosophers, Fullinwider wishes to resurrect and redeem the approach to moral problems shared by the much-maligned ancient sophists and early modern (Jesuit) casuists, an approach defined by scrupulous attention to context and detail, rhetorical persuasiveness, sympathetic comprehension of social and institutional practices, an aversion to systematic reasoning, and insouciance (or downright hostility) towards moral theory. Dismissing philosophical theory as “cloudland,” Fullinwider argues that common sense morality and actual social practices, positive laws, and institutions should form the basis of practical ethics and social criticism.

4.1 Strongly particularist casuistry

Perhaps the most promising of these anti-theoretical movements in bioethics has been the revival of casuistry at the hands of Stephen Toulmin and Albert Jonsen (1998). According to this rehabilitated form of casuistry, the greatest

confidence in our moral judgments resides not at the level of theory, where we endlessly disagree, but rather at the level of the case, where our intuitions often converge without the benefit of theory. More precisely, moral certitude (or our best approximation thereof) is to be found in so-called paradigm cases, where our intuitions are most strongly reinforced. Moral analysis of a given situation begins, then, with a scrupulous inventory of the particular facts of the case—i.e., the who, what, where, how much, for how long, etc.—on which our judgments so often eventually turn. This nexus of particulars is then compared with the details operative in one or more paradigm cases—i.e., clear-cut examples of right or wrong conduct. In bioethics, many of these paradigms are famous legal cases, such as the case of Karen Quinlan in the area of termination of treatment, or the infamous Tuskegee syphilis study in the area of research ethics. The farther the present case takes us from the decisive features of the paradigm, the less confidence we may have in our judgments. And so we traverse the moral landscape by means of triangulating between the present case and related paradigm cases. Eventually, as we discover in the analogous common law tradition, we end up working our way through many related cases over time, and along the way generate a sophisticated typology of cases and governing paradigms that provide us with a rich repository of values for social criticism. As

Fullinwider observes, our manifest need to organize and systematize our ethical thinking, and to give good reasons to each other, can be fully met by this kind of casuistry instead of theory.

Importantly, bioethical casuists contend that their method of moral reasoning, which hovers very close to the ground, offers us better chances of reaching agreement with people of very different religious or theoretical persuasions, and is thus ideally suited to resolving clinical or policy disputes in a pluralistic, democratic society (Sunstein 1996). Looking back on his experience with the first Presidential-level commission on research ethics, Stephen Toulmin noted that the commissioners were often able to forge agreement on some contentious issues—for example, research on prisoners and children—even though they never would have agreed on the deepest theoretical/religious reasons animating their respective positions (Toulmin 1982).

For strongly anti-theoretical casuists like Stephen Toulmin, the suspicion of theory extends even to mid-level bioethical principles, which, he argues, serve no justificatory function. In contrast to mainstream bioethical thinkers like Beauchamp and Childress—and even in contrast to more mainstream casuists, like his co-author, Albert Jonsen (1995)—for whom justification involves, inter alia, bringing

actions or policies under various specified ethical principles or maxims, Toulmin contends that moral principles serve only an heuristic function; that is, they serve primarily to remind us of salient features of past decisions. Principles are, as it were, the ribbon we wrap around decisions we have already come to on the basis of particularistic casuistical reasoning.

4.2 Epistemological moral particularism

It is precisely on this point that hard-core bioethical casuistry converges with the epistemology of moral particularism as forcefully elaborated in the work of Jonathan Dancy (2006, 2009). According to Dancy, theories that accord an important justificatory role to moral principles, as most methodological approaches in bioethics do, wrongly assume that right- or wrong-making features of various situations must remain constant from one case to another. For example, if a physician lies to a patient, and if we regard that lying as telling against the morality of her action, we assume that lying will be a wrong-making element in any and all future cases. While many theorists who embrace the importance of principles in moral argument (e.g., W.D. Ross, Beauchamp and Childress, et al.) concede that the *weight* of any given principle may vary tremendously from one set of facts to another, moral particularists like Dancy go farther in denying that the *moral valence* of any particular element must remain constant from

one case to another. In other words, they would contend that in some situations lying might be positively good, not merely a bad to be outweighed by some other element of the situation, so a general rule or principle against lying would inevitably be both overbroad and insufficiently attentive to context.

For strong particularists and hard-core bioethical casuists, then, justification in ethics will not depend upon bringing a set of facts under a suitably interpreted general principle; rather, justification will be a matter of all the discrete elements of a particular decision fitting together or “adding up” holistically in the right way. In some cases, lying will have a positive moral valence, while in others, truth-telling may have a negative valence; everything depends upon the particular constellation of circumstances presented by the case. At least with regard to the business of moral justification, then, there's no room for generalizations of any sort within this kind of strong particularist epistemology. Justification will thus tend to rely upon narrative or sensitive perception rather than logical argument; indeed, Dancy frowns upon “browbeating” people with appeals to moral principle. We thus arrive at the most extreme form of moral particularism. Although this view of morality is obviously a meta-ethical theory, it is a theory that could pretty much rule out the entirety of normative ethical theory, and most of what passes for theory within bioethics as well.

5. Some problems for the strong casuistry / anti-theory position

Eschewing high theory in bioethics does not necessarily commit us to a strongly particularistic variant of casuistry. As it developed historically, casuistry has always concerned itself with the proper application or interpretation of moral principles or maxims to difficult cases. Developed as it was in the context of highly deontological religious ethical systems with strong rules against lying, taking innocent life, etc., casuistry's primary task has been to adjudicate between such rules or principles in complicated cases where they conflict or their application is unclear. Historically, at least, the task of casuistry has thus been to interpret conflicting moral principles within the prism of individual "cases of conscience," not to abolish principles or maxims as sources of moral justification (Arras 1998, Jonsen 1995).

It is also extremely unlikely that casuistry could be developed into a completely freestanding method without any connection to moral principles or a larger ethical vision. As an analogical method of thinking, casuistry attempts to extend the judgments reached in so-called paradigm cases to new cases that present somewhat different fact patterns. The casuists' persistent questions are: (1) "Is this new case (X) more like paradigm Y or paradigm Z?" and (2) "If the present case better

fits within the orbit of paradigm Y than Z, is the fit with Y close enough to confer confidence in our moral judgment?" Showing that X bears more resemblance to Y than to Z means that an interpretation of the present case as falling within the analogical sphere of Y will provide us with the best justification for our present action. Our confidence in this analogical process stems from our confidence that the moral principle(s) embedded in Y extend to the present case, notwithstanding a certain number of factual differences. As the factual differences mount, we might conclude that the principle still holds, but does so only weakly, with less confidence. And at a certain point, the differences may become so great that the original principle animating our judgment in Y loses its justifying force entirely, at which point we begin reaching for another paradigm.

The crucial point here is that analogical reasoning is not self-directed. It requires principles or maxims, a sense of what's ethically relevant, or a background moral vision of some sort in order to give it direction. If we think of casuistry as an engine of moral justification, it is natural to ask about the steering wheel that provides a sense of direction to our analogical reasoning. In the most influential version of casuistry practiced today, as articulated by Albert Jonsen (1995), moral principles or generalizations provide this sense of direction. Paradigm cases are defined here as those cases in

which a given principle applies most clearly, straightforwardly, and powerfully. To the extent that we are at all able to approximate certainty in moral matters, it will be in the context of a strong match between a principle and a paradigmatic set of facts. Generalizations or principles also provide us with the crucially important understanding of what's morally relevant and why, which drives analogical reasoning forward. In conceding these pivotal roles to moral principles, Jonsen both distanced himself from Toulmin's more radically particularistic brand of casuistry and softened the differences between casuistry and its principal methodological rival, the principlism of Beauchamp and Childress.[7]

What then to make of Dancy's particularistic, anti-principled, and anti-theoretical moral epistemology that appears to pose such a threat to business as usual in bioethics? Although this isn't the place for a full-blown examination of Dancy's subtle and philosophically sophisticated position,[8] we can sound a couple of cautionary observations. First, we can all agree with Dancy that sound moral judgment depends upon the particularities of moral situations in all their individuality and complexity. Blundering into a situation armed with inflexible and invariant moral principles that must hold everywhere and always in the same way, no matter what the facts on the ground, is, we can concede to Dancy, a big

mistake, although identifying actual theorists who are guilty of such ham-handed blundering might prove to be a challenge.

Second, however, it is unclear that Dancy's reliance upon nuanced moral perception and narrative epistemology can really provide us with a plausible, let alone serviceable, notion of moral justification. If someone asks us for a moral justification of our stand on a particular issue, they are most likely going to be unsatisfied with such responses as: “All the facts just seemed to me to add up in a way that yields this conclusion,” or “My heightened skills of moral perception indicate that this is the correct judgment to make about this particular constellation of facts.” Instead, we will most likely want to hold out for some sort of inference or argument that moves from some sort of moral generalization (e.g., “lying is wrong”) to an all-things-considered judgment about this particular instance of lying (which might gain justificatory support from other elements of the situation) (Lance and Little 2006, Little 2001).

Third, the distance between Dancy's anti-principlist position and the standard approach to moral principles taken by, e.g., W.D. Ross and Beauchamp-Childress, is in practice not that great, and the remaining differences tend to tell in favor of the latter position rather than the former. Let us recall that the standard view of principles in bioethics, following

Ross, is that various elements of action (e.g., the fact that an action involved a lie or cruelty) might well retain the same valence from one situation to another – i.e., lying will be a bad-making consideration in all cases—but that their weight will indeed vary from one situation to another, depending upon the facts. So it is quite possible to imagine cases where the wrong-making element of telling a lie might be vastly outweighed by other good-making considerations. (Think of the case of the Nazis banging on your door, asking about Jews you've been harboring.) In cases of this sort, Dancy's strong particularist epistemology will reach the same result, and only for a slightly different reason. While he would discern no negative valence in such an act of lying ("What Jews?") and would instead see a positive valence, the Ross-Beauchamp-Childress approach would ascribe a negative valence to any act of lying, but would assign zero weight to that element in coming to the conclusion that lying is permissible in this particular context due to a host of countervailing positive factors.

Pragmatically, then, so long as the defenders of principles remain sensitive to context, it seems there is little, if anything, to be gained by embracing strong particularism, but perhaps something of value may be lost. Again, according to the strong particularist, the valence of any contextual element is not fixed in any way outside of particular contexts. Considerations that

have told in favor of past actions might tell against other actions in the future. Although Dancy concedes that some properties of actions (e.g., lying, killing) may consistently present themselves to us as having a more or less stable valence, he denies that this sort of inductively derived pattern carries with it any justificatory force. Some particularists are prepared to bite this bullet, steadfastly maintaining that such "default valences" are mere summaries of moral knowledge restricted to specific past acts of moral decision making, wherein all the factors "added up" in a certain way; but others lament the loss of explanatory power resulting from such a dismissal of generalizations. For this rival particularist camp, principles and moral generalizations give us real knowledge about certain types of action and what makes them right or wrong (Lance and Little 2006, Little 2001). While conceding to Dancy that the standard conditions that make them right or wrong may not hold in aberrant or idiosyncratic cases (e.g., lying in the Nazi case above, or perhaps killing a friend about to be burned to death by implacable enemies, as in the film version of *Last of the Mohicans*), these more moderate particularists maintain that certain properties of action, under standard circumstances, give us real knowledge that can and should form the basis of inferences and arguments in particular cases.

These more moderate particularists, troubled by Dancy's moral epistemology, would also include the advocates of “theory modest” casuistry in bioethics. His brand of strong particularism would threaten not only the methodology of standard issue principlists like Beauchamp and Childress, but it would also trouble moderate casuists like Albert Jonsen, whose method commits them to the value of consistency in analogically passing from one case to another (G. Dworkin 2006). If a certain general feature (e.g., deception) figured prominently in a paradigm case, if we decided that case the way we did because of the presence of that feature, then, the other key factors being more or less equal, we should decide future cases in a similar fashion. Jonsen's moderate casuistry requires consistency in such cases, and appeals to consistency constitute a reasoned argument offered to those who might initially disagree with our judgment in the instant case. Were Dancy correct, consistency would drop out entirely as a moral reason to do anything, and moral argument would be replaced with the ability to correctly perceive a given set of situational features as “adding up” in just the right way (whatever that is).

In sum, then, the anti-theory position in both its strong casuist and strong particularist incarnations is problematic. Although we can and should learn from the anti-theorist critique, and pay special heed to its insistence upon the importance of particular circumstances for moral judgment,

the most uncompromising versions of casuistry and particularism threaten to replace reasoned argument by the delicate and nuanced perceptions of sensitive moral judges. Many will find this to be a deficient or at least incomplete mode of moral justification.

6. Towards a “theory modest” bioethics: Defining “theory” down

Having duly noted the appeal and shortcomings both of high moral theory and of particularist anti-theory, it is time to move toward a more plausible middle ground marking the intersection of bioethics and philosophical theory. Is there then a role for theory in bioethics, and, if so, what kinds of theory?

6.1 Nonideal theory in bioethics

In addition to ideal political theory, which provides us with an objective to aim at, we also need nonideal theory, which takes account of messy realities on the ground in charting a practical course towards that objective. Unlike the ideal theorist, the nonideal theorist must consider whether a proposed policy is:

- Sufficiently gradual in its proposed transition from a less than fully just society to a more just state of affairs. For example, does it abruptly pull the rug out from under people

who have heretofore reasonably relied on less than fully just social practices in ordering their lives? (Simmons, 2010)

- Likely to be effective as part of a strategy towards the elimination of injustice.

- Politically acceptable—e.g., a single-payer health system might be ideally just and efficient, but will it be acceptable to the public and the wide variety of powerful interest groups within a particular country?

- Directed at remedying those social injustices with the greatest priority. (Simmons 2010, Powers-Faden 2006)

Notwithstanding its manifest importance for practical ethics, there has been relatively little self-conscious scholarly work on nonideal justice theory in either political philosophy or bioethics. The need for such theorizing is perhaps most obvious and compelling in the area of global bioethics, where biomedical research is conducted against a backdrop of appalling disparities between rich and poor nations. What norms should govern the conduct of international research (and post-trial access to benefits flowing therefrom) when the subjects of such research often lack access to even the most rudimentary forms of health care and public health? Should a single ethical standard representing perfect justice be applied within rich and poor nations alike (Macklin 2004)? Or will the

attempt to impose rules required by perfect justice backfire, making the worst off even worse off than they might have been under policies that acknowledged the need to recognize and compensate for past and present injustices (Wertheimer forthcoming)?

One important exception to the neglect of nonideal theory within bioethics is provided by the work of Madison Powers and Ruth Faden (2006). In developing a theory of social justice for deployment in the areas of health care and public health, these authors begin with an account of human well being, similar to the capabilities approach of Sen and Nussbaum, but then insist that unjust inequalities provide the real world context in which questions of justice arise for us. For them, the “job of justice” in our nonideal world is to figure out how basic social structures act independently or, more usually, in combination to thwart the development of human well-being. Determining priorities for health care and public health requires both normative and empirical studies bearing on the cumulative effects of various structural inequalities on prospects for human flourishing, and thus cannot be accomplished within the ambit of standard-brand ideal theories of justice.

6.2 Nonideal modalities of argument

Bioethics should also be nonideal in terms of its assumptions about those who are engaged in the public bioethical discussion. As we saw above in Sec. 3.4, there is potential tension between the quest for truth in philosophical theory and the requirements of democracy. The reasons we offer in favor of our basic social arrangements must not be so esoteric and technical that citizens of average intelligence and normal capacities cannot comprehend them. Democracy requires comprehensible rationales for its basic norms as a matter of respect for each person. “Rule by experts” is undemocratic insofar as it fails to show such respect.

Although this kind of publicity argument is perhaps strongest when it comes to justifying and articulating the basic rules of social cooperation, what Rawls called the “basic structure” of society, it also plausibly extends to the full range of issues that encompass the field of bioethics. Patients, families, potential research subjects, health care providers, public health officials, and the public itself generally lack both the specialized intellectual skills of philosophical theoreticians and the time and inclination to develop such skills; yet, as members of a democratic polity, all those engaged in the

activities of medicine, nursing, biomedical research, and public health deserve a set of policies whose respective rationales can be explained to them in language that they can understand (London 2001). This is yet another reason why clinical and policy-oriented bioethics should not be grounded in some versions of high philosophical theory. Just as theorists must take account of various nonideal factors, such as the existence of deeply entrenched social inequalities within society as we know it, so too must we take account of the fact that most people in society lack the time, inclination, and perhaps the intellectual aptitude to engage in rigorous philosophical theorizing. The intellectual moorings of public bioethics should, then, be sought primarily in modes of thought and policy analysis that are more down to earth and publicly accessible. Further, deeper justifications in terms of esoteric philosophical theory would, of course, be welcome, but only insofar as they remained consistent in principle with public "mid-level" justifications of the same policies.

6.3 Convergence on method

It is no accident, then, that since its inception in the 1960s and '70s, the field of bioethics has largely eschewed both high moral theory and direct application of ideal political philosophy. Instead, most of the contributors to this field, including most bioethicist-philosophers, have embraced one or

more methods designed, in the clumsy but accurate phrase of Cass Sunstein (1996), to facilitate “incompletely theorized agreements” on moral problems in medicine, public health, and biomedical research. These mid-level methods include the principlism of Beauchamp and Childress; the casuistry of Jonsen and Baruch Brody; the focus on “narrative ethics” and interpretive techniques championed by Howard Brody (2002), Katherine Montgomery (Hunter) (1991), and Rita Charon (2006); the virtue ethics of Pellegrino (1993) and Drane (1995; the pragmatism of Frank Miller and Joseph Fins (1996); and the feminism of Margaret Little (1996), Susan Sherwin (2008) and many others.[9] Although casuistry, narrative, virtue ethics, pragmatism, and feminism first emerged in contemporary debates as challengers to the regnant method of principlism during the 1980s and-90s, each claiming supremacy over both principlism and other methods, the boundaries between these rival methodologies have blurred significantly in the intervening years, so much so that all of these methods might now be said to be mutually complementary, non-exclusive modes of moral inquiry for doing ethics in the public domain. (Beauchamp 1995, Arras 2007)

The convergence of all these initially rival methodologies into a widely shared mid-level approach to bioethical problems has been facilitated by two developments in the literature. First, each faction has made a convincing case for its particular

methodological emphasis. This has required each approach to acknowledge or incorporate elements drawn from other methodologies and, accordingly, to soften its claims to methodological supremacy. For example, the casuistry of Jonsen and Toulmin arose as a robust particularist challenge to the principlism of Beauchamp and Childress. They took the latter to task for the abstractness and deductivism allegedly on display in early editions of the *Principles of Biomedical Ethics*, arguing instead for a case-based, “bottom up” approach to ethics that resembled the Anglo-American common law both in its emphasis upon concrete particulars and in its conception of principles as emerging from our engagement with cases. This challenge led Beauchamp and Childress to concede the important role of particularized case judgments in the identification and specification of moral principles. Following this critical exchange, the avatars of an allegedly deductive principlism acknowledged a two-way relationship between moral principles and case judgments. Conversely, the exchange with principlism led the proponents of casuistry to soften their initial claims that bioethics should be theory free and that principles only played a heuristic (but not justificatory) role in moral judgment. Both sides emerged from this confrontation agreeing upon a critical role for ethical principles and maxims, and upon a constructive role for case judgments in the development and refinement of principles.

The differences between these rival methodologies now appeared to be more a matter of emphasis than of principle (or the lack thereof) (Kuczewski 1998).

6.4 Converging on reflective equilibrium

The second major development leading to a convergence on a theory-modest method within bioethics was the widespread adoption of reflective equilibrium as a widely shared method of moral justification (Arras 2007). Initially deployed by Rawls in the design of his contractualist “original position” in political philosophy, this method attempts to harmonize all the elements contributing to moral judgment, including intuitions about cases, moral principles, moral theories, and background theories of moral agency and social organization. Reflective equilibrium is “holistic” and non-foundationalist insofar as it emphasizes the importance of all these disparate elements fitting together in a satisfactory way. In contrast to earlier methodological formulations within bioethics that gave foundational status to, say, moral principles or intuitions about paradigm cases, reflective equilibrium finds justification through the coherence of all these elements, each of which impinges on all the others in a multi-directional dialectic. To simplify just a bit, principles and moral theories function within this method to organize, explain, criticize, and extend our intuitive responses to cases, but those very

responses can, in turn, help us to amend and sharpen our principles and theories when they prove inadequate to the complexities of emerging cases.

One important implication of adopting the method of reflective equilibrium is a blurring of the allegedly sharp boundary between practical ethics and ethical theory. Indeed, one common rationale for inquiring into the relationship between bioethics and ethical theory is the widespread presumption that these two activities must operate within entirely different spheres: ethical theory addresses fundamental questions at a high level, divorced from the messy reality of everyday practice, while bioethics is thought merely to apply the ready-made findings of ethical theory to practical problems. If we are guided by a holistic method like reflective equilibrium, however, we should expect theory to shed critical light on our responses to cases, but we should also expect reflection on cases to shape the sort of principles and theory we eventually develop. Ethical reflection is a two-way street (Beauchamp 1984, Brock 1996).

Reflective equilibrium can, however, be interpreted in two different ways, each of which yields a different gloss on the relationship between bioethics and moral theory (Arras 2007). On a narrow reading, reflective equilibrium encompasses our intuitions about cases and the moral principles we use to

explain, organize, critique, and extend such intuitions. According to some philosopher-bioethicists, the complete set (so far) of intuitions and principles in equilibrium *just is* what we should mean by "moral theory" (DeGrazia 1996, B. Brody 1988). Accordingly denominated "narrow reflective equilibrium" (NRE), this gloss accounts for much scholarly and critical commentary within bioethics. One salient example was on display in the famous "Baby Doe" controversy of the mid-1980s in which the Reagan Justice Department attempted to impose a "non-discrimination principle" upon health care workers in neonatal intensive care units. Subsequent commentary debated the appropriateness of applying a principle governing discrimination against racial minorities and women in education, jobs, and housing to decisions to terminate medical care for some extremely ill or malformed newborns. Many physicians and bioethicists contended that the nondiscrimination principle was far too blunt an instrument to do justice to such enormously delicate and complex cases, and sought to amend the moral principles governing such cases in a way that would capture such complexity (Rhoden and Arras 1985).

On a much broader and ambitious reading, reflective equilibrium encompasses not just sets of intuitive responses to cases and matching moral principles, but also a reasoned choice among the full panoply of live options in moral and

political theory, as well as background theories of human agency, personhood, and the workings of social systems (Daniels 1996). The rationale for buttressing NRE with these additional moral, political and social theories is that a relatively narrow focus upon our most confident intuitions and the principles that organize and explain them could engender an uncritical provincialism in our moral outlook. As the computer scientists put it, “Garbage in, garbage out.”[10] If many of our basic, most confidently held moral intuitions are eventually rejected by subsequent generations as fatally flawed—see, e.g., once dominant views denying social equality to women, minorities, and gays—a moral system based upon such intuitions might also be fatally flawed. Hence the need to supplement our intuitions and organizing principles with the best moral, political, and social theories we can muster. Holding our intuitions, principles and corrective theories together in one coherent body of beliefs amounts to “wide reflective equilibrium” (WRE).

Since both narrow and wide reflective equilibrium posit a relationship characterized by mutual dependency and critical tension among our intuitions, principles, and theories, both methods would effectively blur the alleged dichotomy between moral theory and practical ethics. By engaging in practical ethics via reflective equilibrium of any sort, we are already thereby engaging in a form of ethical theorizing, albeit perhaps

at a lower level of abstraction than traditional high theory. But because WRE would have us choose among various live options in moral and social theory, it would yield a different kind of relationship between bioethics and theory. By incorporating a reasoned choice among various moral and social theories as part of its method of justification, WRE might provide independent theoretical discipline to our intuitions and moral principles,[11] but it does so at the cost of vastly enlarging our methodological ambitions and the complexity of the task at hand. Rather than simply redefining "theory" as the modest result of NRE, WRE requires a robust, critical role for many kinds of traditional moral, political, and social theories in constraining the results of NRE, such as those reached at the level of fields like bioethics.

Although WRE might well be the optimal method for the *ultimate* justification of our moral judgments—i.e., the optimal method for Dworkin's Hercules—two problems loom for it as a method of moral inquiry in practical ethics. First, if WRE requires reasoned choices among various live options in moral, political and social theory, this will no doubt reintroduce many of the problems we have already canvassed with regard to using high moral theory in bioethics. Were the constraints of WRE taken seriously by practitioners of bioethics, we would have to postpone judgment on the particular case or policy question before us until we had

reached closure on the best theories governing ethics, politics, and social organization. Needless to say, this could result in a very long delay. It would also be a contentious delay, since the likelihood of achieving widespread agreement on any version of high theory would be low. WRE would most likely reintroduce the same social fissures at the level of theory that we have already witnessed at the level of intuitions and moral principles (Arras 2007).

Second, the most credible and philosophically sophisticated glosses on WRE have literally nothing to say about exactly how we should go about making choices from among the various live options in political, moral, and social theory. They don't give us criteria for judging what an optimal theory would look like, and they therefore make no effort to rank the various theories against one another. In other words, the criteria for choosing among various theories would have to be drawn from sources outside the ambit of WRE, which, in turn, casts doubt upon its potential as a stand-alone method of moral and political thought, at least at the level of practice.

6.4.1 The role of mid-level theories

The field of bioethics has been fertile ground for the development of relatively modest, mid-level theories on a vast range of topics. In contrast to the vaulting structures so disfavored by Annette Baier—i.e., grand theories held together

by one or two norms placed as keystones—most mid-level theorizing in bioethics more closely resembles what Baier calls a "mosaic" approach to theory-building, which starts closer to the ground and erects, brick by brick, theoretical structures of modest scope (1994). Another illuminating metaphor for this kind of theorizing is Claude Lévi-Strauss's notion of "*bricolage*," i.e., working by hand at odd jobs with whatever resources happen to be available within a repertoire of inherited tools and assorted bric-a-brac. Whereas Lévi-Strauss viewed the *bricoleur* as a good example of the so-called "savage mind," in contrast with the modern mind-set of the engineer, Jeffrey Stout has plausibly argued that every work of moral philosophy, great or modest, involves some degree of *bricolage*. Like the handyman surrounded by a garage full of tools accumulated for past purposes, the moral philosopher takes stock of the problem at hand, surveys her shelves for available conceptual resources, and then attempts to solve the problem by taking things apart, reordering, culling out, weighing, specifying, splicing in, and putting them all back together. (Stout 1988, p. 75) Philosophers in bioethics are *bricoleurs* par excellence.

Theories of limited scope, built up from materials at hand, play an important conceptual and normative function in debates over abortion and euthanasia (Dworkin 1993) and over such pivotal concepts as "coercion," "commodification,"

“harm,” and “exploitation” in the broad areas of research and reproductive ethics. In response to a good deal of sloppy criticism of new reproductive technologies and research in developing countries, usually claiming that various practices should be morally condemned for allegedly being harmful, coercive or exploitative, words that seem to have become all-purpose terms of abuse for disfavored practices, philosophers have engaged in fruitful mid-level theorizing about the meaning and moral import of such concepts. Most often, this kind of theorizing gets done without any appeals to ultimate high-level moral theory. It begins by taking stock of a problem at hand; the theorist then looks around for available conceptual resources for shedding light on it. Sometimes those resources will be culled from high theory (e.g., the Kantian notion of respect for persons or Parfit's non-identity problem), but more often than not they will be inspired by philosophers such as Joel Feinberg (1984–1988) and Alan Wertheimer (forthcoming), who do not wear their ultimate philosophical allegiances on their respective sleeves. The analysis grows out of attentive descriptions of ordinary linguistic usage and common moral and legal responses to various situations, and then proceeds to ask exactly what it is about harmful, coercive or exploitative behaviors that should merit our moral disapprobation, and under what circumstances (Emanuel and Hawkins 2008). This kind of theorizing is both unavoidable

and indispensible in a field like bioethics, and it has done much to clarify and advance often heretofore muddled public debates; but it need not claim allegiance to any particular denomination of high moral theory.

Another important example of this kind of modest theorizing is provided by philosophical reflections on the theme of "equal opportunity" as related to the allocation of health care and the social determinants of health (Daniels 2007). Although Norman Daniels's influential account of "just health" is obviously inspired by Rawlsian political theory, and although his particular gloss on equal opportunity also happened to be favored by Rawls, Daniels notes that one need not be a Rawlsian to agree with his theory. All that is required to reach his conclusions, he suggests, is a robust principle of equal opportunity, one that is compatible with a variety of political theories and finds broad (though not universal) acceptance in society at large.

Mid-level theorizing about equal opportunity also plays a prominent role in important contemporary debates about social policy on disability and the ethics of genetic enhancement . The latter topic is especially interesting because it provides us with a good example of how bioethics can pose a constructive challenge to traditional understandings in ethical-political theory and, thus, a good example of how influence between

bioethics and theory runs in both directions. As Daniels and his colleagues have demonstrated, the advent of genetic technologies and the promise of direct intervention on the human genome raise a host of interesting challenges to our standard notions of equal opportunity (Buchanan *et al*. 2000). Now that our basic human capabilities are slowly becoming matters of deliberate choice rather than the random results of the genetic lottery, we suddenly become morally responsible for possible actions or omissions available to us. Should we restrict our understanding of equality of opportunity to those standard deficiencies in the social structure (e.g., sexism, racism) that inhibit people from enjoying opportunities for schooling, employment, housing, etc.? Or should we expand the demands of equal opportunity under the aegis of the new genetics to include the possession of a normal (or perhaps enhanced) human genome? If some people enjoy lesser life prospects due to lesser intelligence or an unsightly appearance, why not intervene directly through genetic or surgical technologies so as to even things out?

Many additional examples of helpful mid-level theorizing in bioethics could be adduced and discussed at length here, but space precludes a leisurely, comprehensive inventory. I shall, then, limit myself here to just flagging several especially salient examples and encouraging interested readers to consult the supplementary document A Taxonomy of Theoretical

Work in Bioethics, where many more examples of theory in bioethics are cited and discussed.

- Reflections on the nature and moral import of informed consent to medical treatment and participation in research (Miller and Wertheimer 2009, Manson and O'Neill 2007, Blustein et al. 1999).

- Roles of family in medical decision making (Nelson and Nelson 1995).

- Theories focused on the ethics of research with human subjects and the pivotal concept of "clinical equipoise" (Freedman 1987, Weijer 2003, Miller 2004, London 2007, Wertheimer forthcoming).

- Accounts of justice in international research ethics, bearing on what researchers from developed nations owe to individuals and communities at research sites in the developing world (Emanuel 2003, Macklin 2004, Pogge 2008, London 2005, Wertheimer forthcoming).

- Theories of suffering in the context of end-of-life care (Cassell 1991).

- Accounts of personal identity and precedent autonomy developed in the context of debates over the force of advance

directives and terminal care (Dworkin 1993, Dresser 1989, Rhoden 1988, Buchanan and Brock 1989).

- Theorizing on priorities in health care allocation, focusing on the prospects and limits of cost-effectiveness analysis (Brock, 2004).

- Debates over the allocation of organs and their possible commodification (Childress 1996, Murray 1996).

- Philosophical reflection on the moral status of embryos in the context of controversies surrounding abortion, embryo research, and parental responsibilities for offspring (Steinbock 1996, Robertson 1996, Glover 2006).

- development of a “population-based” ethic for public health. (Powers and Faden 2006, Anand et al., 2006, Jennings and Arras 2010, Battin et al. 2009).

- Feminist theories of abortion and reproductive technologies (Little 2003, Sherwin 2008).

- Reflection on the ethics of enhancing human traits through genetic manipulation (Glover 2006, Buchanan 2010, Green 2007, Harris 2007, President's Council 2003).

7. Conclusion

Again, what's theory to bioethics, and bioethics to theory? As we have seen all-too-well by now, there is no short answer to this question. Everything depends upon how we characterize bioethics (i.e., as clinical, policy-oriented, or academic), and how we understand theory: i.e., as high, vaulting theory, mid-level theorizing tailored to specific problems, the result (or an element) of reflective equilibrium, and so on. I suspect that the paradigm of high theory inspires (or haunts) most anguished inquiries into the relationship between practical ethics, including bioethics, and philosophical/moral theory. But once we realize (1) that high theory, especially in its non-pluralistic forms, is a spectacularly ill-suited medium for bioethical reflection in the clinic and policy circles, and (2) that ideal political theory, while providing us perhaps with a description of Paradise Island, doesn't provide us with a map telling us how to get there under nonideal conditions, then it becomes clear that nonideal, mid-level theorizing is the site of the philosophical action in bioethics and related fields.[12] Understood in this more modest sense, “theory” is a completely natural and should be an entirely uncontroversial element of bioethics or

of any practical ethical reflection. Indeed, it's hard to imagine what the field would look like without it.

Exercise

1. Explain the Nonideal theory in bioethics.
2. “At the other extreme, bioethics has witnessed the emergence of several interesting varieties of anti-theory, including various strains or combinations of casuistry, narrative ethics, feminism, and pragmatism.” Comment on the previous text.
3. Explain The relationship between Vaulting theories and moral pluralism
4. “Perhaps the most promising of these anti-theoretical movements in bioethics has been the revival of casuistry at the hands of Stephen Toulmin and Albert Jonsen (1998). According to this rehabilitated form of casuistry, the greatest confidence in our moral judgments resides not at the level of theory, where we endlessly disagree, but rather at the level of the case, where our intuitions often converge without the benefit of theory. More precisely, moral certitude (or our best approximation thereof) is to be found in so-called paradigm cases, where our intuitions are most strongly reinforced.” Translate into Arabic .

Answers

1- In addition to ideal political theory, which provides us with an objective to aim at, we also need nonideal theory, which takes account of messy realities on the ground in charting a practical course towards that objective.. Sufficiently gradual in its proposed transition from a less than fully just society to a more just state of affairs.. Likely to be effective as part of a strategy towards the elimination of injustice… Directed at remedying those social injustices with the greatest priority.etc..
2- The case for anti-theory in bioethics
3- The final problem with appeals to high philosophical theory to be mentioned here applies only to that subset of theories resembling vault-like structures held together by a small number of key principles, such as the Kantian categorical imperative or the principle of utility etc..

Unit 7

Internet Research Ethics

Elizabeth A.Buchanan - Michael Zimmer

Learning Obectives:

By the end of this chapter students will be able to:

- Ø define Internet research ethics (IRE).
- Ø know different Ethical Issues in (IRE).
- Ø

Elements:

- Ø Definitions.
- Ø Human Subjects Research.
- Ø History and Development of IRE as a Discipline.
- Ø Specific Ethical Issues in Internet Research.
- Ø Privacy.
- Ø Recruitment.
- Ø Informed Consent.
- Ø Cloud Computing and Research Ethics

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Text

1. Definitions

The commonly accepted definition of Internet research ethics (IRE) has been used by Buchanan and Ess (2008, 2009), Buchanan (2010), and Ess & Association of Internet Researchers (AoIR) (2002):

IRE is defined as the analysis of ethical issues and application of research ethics principles as they pertain to research conducted on and in the Internet. Internet-based research, broadly defined, is research which utilizes the Internet to collect information through an online tool, such as an online survey; studies about how people use the Internet, e.g., through collecting data and/or examining activities in or on any online environments; and/or, uses of online datasets, databases, or repositories.

Critical to the definition of Internet research ethics is the concept of the Internet as a research tool versus a research venue. The distinction between tool and venue plays out across disciplinary and methodological orientations. As a tool, Internet research is enabled by search engines, data aggregators, databases, catalogs, and repositories, while

venues include such places or locales as conversation applications (IM/chat rooms, for example), MUDs, MOOs, MMORPGs, (forms of role playing games, virtual worlds) newsgroups, home pages, blogs, micro-blogging (i.e., Twitter), RSS feeds, crowd sourcing applications, or online course software.[1]

Another way of conceptualizing the distinction between tool and locale comes from Kitchin (2008), who has referred to a distinction in Internet research using the concepts of “engaged web-based research” versus “non-intrusive web-based research:” “Non-intrusive analyses refer to techniques of data collection that do not interrupt the naturally occurring state of the site or cybercommunity, or interfere with premanufactured text. Conversely, engaged analyses reach into the site or community and thus engage the participants of the web source” (p. 15). These two constructs provide researchers with a way of discerning if human subjects protections would apply. McKee and Porter (2009), as well as Banks and Eble (2007) provide guidance on the continuum of human-subjects research, noting a distinction between person-based versus text-based. For example, McKee and Porter provide a range of research variables (public/private, topic sensitivity, degree of interaction, and subject vulnerability) which are useful in determining where on the continuum of text-based versus how person-based the

research is, and whether or not subjects would need to consent to the research (pp. 87–88).

While conceptually useful for determining human subjects participation, the distinction between tool and venue or engaged versus non-intrusive web-based research is increasingly blurring in the face of social media and their third party applications. The concept of social media entails “A group of Internet-based applications that build on the ideological and technological foundations of Web 2.0, and that allow the creation and exchange of user-generated content” (Kaplan & Haenlein 2010). A “social network site” is a category of websites with profiles, semi-persistent public commentary on the profile, and a traversable publicly articulated social network displayed in relation to the profile.

This collapse of tool and venue can be traced primarily to the increasing use of third party sites and applications such as Facebook, Google+, or any of the myriad online survey tools where subject or participant recruitment, data collection, data analysis, and data dissemination can all occur in the same space. These sites have contributed to such ownership and privacy considerations as “Do You Own Facebook? Or Does Facebook Own You?” (Grigoriadis 2010) or, “‘I agree’, but to what?” (Head 2010).

Gilbert (2009) has specifically argued against the terms of use or end user license agreement stipulations in virtual worlds, noting that such agreements are often “flawed,” as they rely on laws and regulations from a specific locale and attempt to enforce them in a non place-based environment. The terms of “inter-jurisdictional coordination” (p. 3) are inherently challenging. Nonetheless, researchers now make frequent use of data aggregation tools, scraping data from user profiles or transaction logs, harvesting data from Twitter streams, or storing data on cloud servers such as Dropbox, only after agreeing to the terms of service that go along with those sites. The use of such third party applications or tools changes fundamental aspects of research, and are unique characteristics of Internet research at this time. These unique characteristics implicate concepts and practicalities of privacy, consent, ownership, jurisdictional boundaries, and recruitment measures, as described below. The phenomenon of the social web forces an ongoing negotiation between researchers and their data sources or human subjects. Photo-sharing sites, for example, are both a site of data aggregation and a venue for data collection and analysis. Clinical trials web sites provide another example of the use of an Internet as a space for recruitment of participants, sharing of information, and dissemination of data or results (Glickman et al. 2012).

Moreover, with the growing use and concentration of mobile devices, the notion of Internet research is expanding with a movement away from a “place-based” Internet to a dispersed reality. Data collection from mobile devices is on the increase. For example, mobile devices enable the use of synchronous data collection and dissemination from non-place based environments. Researchers using cloud-enabled applications can send and receive data to and from participants synchronously. The impact of such research possibilities for epidemiological research (Leibovici et al. 2010) to community-based participatory research (Parras et al. 2011) is staggering for its scientific potential while demanding for the concurrent ethical challenges. Many of these challenges require a careful consideration of traditional notions of human subjects research and how Internet research pushes the boundaries of these notions.

2. Human Subjects Research

The practical, professional, and theoretical implications of human subjects protections has been covered extensively in scholarly literature, ranging from medical/biomedical to social sciences to computing and technical disciplines (see Beauchamp & Childress 2008; Emanual et al. 2003; Sieber 1992 and forthcoming; Wright 2006). Relevant protections and regulations continue to receive much attention in the

face of research ethics violations (see, for example, Skloot 2010, on Henrietta Lacks; the US Government's admission and apology to the Guatemalan Government for STD testing in the 1940s; and Gaw & Burns 2011, on lessons from the past to inform current research ethics and conduct).

The history of human subjects protections (Sparks 2002—see Other Internet Resources) grew out of atrocities such as Nazi human experimentation during World War II, which resulted in the Nuremberg Code, in 1947; subsequently followed by the Declaration of Helsinki on Ethical Principles for Medical Research Involving Human Subjects (World Medical Association 1964/2008). And, in response to the decades-long experiments of Tuskegee, the U.S. Department of Health and Human Services put forth a set of basic regulations governing the protection of human subjects (45 C.F.R. § 46), followed by the publication of the "Ethical Principles and Guidelines for the Protection of Human Subjects of Research" by the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, known as the Belmont Report (NCPHSBBR 1979). The Belmont Report identifies three fundamental ethical principles for all human subjects research: Respect for Persons, Beneficence, and Justice.

To ensure consistency across federal agencies in the United States context in human subjects protections, in 1991, the Federal Policy for the Protection of Human Subjects, also known as the “Common Rule” was codified. Regulatory frameworks across the world include the Canadian Tri-Council, the Australian Research Council, The European Commission, The Research Council of Norway and its National Committee for Research Ethics in the Social Sciences and Humanities (Gullor and Ess, 2003; NESH 2006), and the UK's NHS National Research Ethics Service and the Research Ethics Framework (REF) of the ESRC (Economic and Social Research Council) General Guidelines, and the Forum for Ethical Review Committees in Asia and the Western Pacific (FERCAP).

To date, the Common Rule agencies in the US have not issued formal guidance on Internet research. Similarly, across countries, few regulatory bodies have changed or redefined their regulations because of, or in light of, Internet research, but guidelines for researcher and reviewer considerations have been emerging. Despite the cultural specificity of research ethics boards across the world, Buchanan (2010) has described the role and function of the research ethics board, and among others, has noted the similarities in mission, scope, and intention such boards share, predominantly around the notions of risk and harm,

justice, and respect for persons, through the process of informed consent.

While stopping short of regulatory guidance, many research ethics boards are exploring the ways in which Internet research complicates traditional models of human subjects protections can be, or are, applied. For example, the United States Department of Health and Human Services (DHHS) and the Office for Human Research Protections (OHRP) operate with the following definition of human subjects (45 C.F.R. § 46.102(f) 2009).

Human subject means a living individual about whom an investigator (whether professional or student) conducting research obtains

1- data through intervention or interaction with the individual.

2- identifiable private information.

Intervention includes both physical procedures by which data are gathered (for example, venipuncture) and manipulations of the subject or the subject's environment that are performed for research purposes. Interaction includes communication or interpersonal contact between investigator and subject. Private information includes information about behavior that occurs in a context in which

an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a medical record). Private information must be individually identifiable (i.e., the identity of the subject is or may readily be ascertained by the investigator or associated with the information) in order for obtaining the information to constitute research involving human subjects (OHRP, 2008).

Two novel notions entering human subjects discourse include "human non-subjects research" and "human harming research." Brothers and Clayton (2010) propose human non-subjects as a conceptual category, not as a replacement of regulatory language but as another category for research review considerations. Human non-subjects research is emerging in light of technological advancements and research development which uses deidentified information on humans, for example, genetic data, or discrete variables from a data set, specifically in the contexts of tissue banking or deidentified data in repositories that are used for other research beyond when the samples or data were first collected. An individual may have consented to the original research, say, in a clinical trial, in such cases, reconsent may be impossible, yet the samples may still pose

reidentification risks to humans. For instance, as data sets are shared, data may be scrubbed to remove all identifiers, or some identifiers may be kept with the data or the data custodian. Rothstein (2010) agrees, with a clear eye to privacy and risk: “The use of deidentified health information and biological specimens in research creates a range of privacy and other risks to individuals and groups. The current regulatory system, under which privacy protections are afforded identifiable information but no protections apply to deidentified information, needs to be revised” (p. 3). O'Rourke (2007) has provided guidance on the use of human specimens and banking, which could be adapted to other forms of data banking.

Carpenter and Dittrich (2011) and Aycock et al. (2012) refer to the notion of “human-harming research” as a variable in human subjects review in Internet, or more specifically, computer science or information/communication technology (ICT) research. Carpenter and Dittrich encourage

Review boards [to] transition from an informed consent driven review to a risk analysis review that addresses potential harms stemming from research in which a researcher does not directly interact with the at-risk individuals….[The] distance between researcher and

affected individual indicates that a paradigm shift is necessary in the research arena. We must transition our idea of research protection from “human subjects research” to “human harming research.”[2]

Similarly, Aycock et al. (2012) assert that

Researchers and boards must balance presenting risks related to the specific research with risks related to the technologies in use. With computer security research, major issues around risk arise, for society at large especially. The risk may not seem evident to an individual but in the scope of security research, larger populations may be vulnerable. There is a significant difficulty in quantifying risks and benefits, in the traditional sense of research ethics….An aggregation of surfing behaviors collected by a bot presents greater distance between researcher and respondent than an interview done in a virtual world between avatars. This distance leads us to suggest that computer security research focus less concern around *human subjects research* in the traditional sense and more concern with *human harming research.* (italics original)

These two conceptual notions are relevant for considering emergent forms of identities or personally identifiable information (PII) such as avatars, virtual beings, bots, textual and graphical information. Within the Code of

Federal Regulations (45 C.F.R. § 46.102(f) 2009): New forms of representations are considered human subjects if PII about living individuals is obtained. PII can be obtained by researchers through scraping data sources, profiles or avatars, or other pieces of data made available by the human "behind the avatar or other representation" (Odwazny & Buchanan 2011). Fairfield agrees: "An avatar, for example, does not merely represent a collection of pixels—it represents the identity of the user" (2011, p. 9)

The multiple disciplines already long engaged in human subjects research (medicine, sociology, anthropology, psychology, communication) have established ethical guidelines intended to assist researchers and those charged with ensuring that research on human subjects follows both legal requirements and ethical practices. But with research involving the Internet—where individuals increasingly share personal information on platforms with porous and shifting boundaries, where both the spread and aggregation of data from disparate sources is increasingly the norm, and where web-based services, and their privacy policies and terms of service statements, morph and evolve rapidly—the ethical frameworks and assumptions traditionally used by researchers and REBs are frequently challenged.

3. History and Development of IRE as a Discipline

While there is an extensive body of literature that has developed since the 1990s around the use of the Internet for research (Jones 1999; Hunsinger, Klastrup & Allen 2010; Consalvo & Ess 2010), with a growing awareness and attention to the ethics of Internet research, seminal works in the history of the field can be identified.

A flurry of Internet research, and explicit concern for the ethical issues concurrently at play in it, began in the mid 1990s. In 1996, Storm King recognized the growing use of the Internet as a venue for research. His work explored the American Psychological Association's guidelines for human subjects research with emergent forms of email, chat, listservs, and virtual communities. With careful attention to risk and benefit to Internet subjects, King offered a cautionary note:

When a field of study is new, the fine points of ethical considerations involved are undefined. As the field matures and results are compiled, researchers often review earlier studies and become concerned because of the apparent disregard for the human subjects involved. (King 1996,119)

The 1996 issue of *Information Society* dedicated to Internet research is considered a watershed moment, and

included much seminal research, still of impact and relevance today (Allen 1996; Boehlefeld 1996; Reid 1996).

Sherry Turkle's 1997 *Life on the Screen: Identity in the Age of the Internet* called direct attention to the human element of online game environments. Moving squarely towards person-based versus text-based research, Turkle pushed researchers to consider human subjects implications of Internet research. Similarly, Markham's *Life Online: Researching Real Experience in Virtual Space* (1998) highlighted methodological complexities of online ethnographic studies, as did Jacobson's 1999 methodological treatment of Internet research. The “field” of study changed the dynamics of researcher-researched roles, identity, and representation of participants from virtual spaces. Markham's work in qualitative online research has been influential across disciplines, as research in nursing, psychology, and medicine has found the potential of this paradigm for online research (Flicker et al. 2004; Esyenbach & Till 2001; Seaboldt & Kupier 1997; Sharf 1996;).

Then, in 1999, the American Association for the Advancement of Science (AAAS), with a contract from the U.S. Office for Human Research Protections (then called the Office for Protection from Research Risks), convened a workshop, with the goal of assessing the alignment of

traditional research ethics concepts to Internet research. The workshop acknowledged

The vast amount of social and behavioral information potentially available on the Internet has made it a prime target for researchers wishing to study the dynamics of human interactions and their consequences in this virtual medium. Researchers can potentially collect data from widely dispersed population sat relatively low cost and in less time than similar efforts in the physical world. As a result, there has been an increase in the number of Internet studies, ranging from surveys to naturalistic observation. (Frankel & Siang 1999)

In the medical/biomedical contexts, Internet research is growing rapidly. Also in 1999, Gunther Eysenbach wrote the first editorial to the newly formed *Journal of Medical Internet Research*. There were three driving forces behind the inception of this journal, and Eysenbach calls attention to the growing social and interpersonal aspects of the Internet:

First, Internet protocols are used for clinical information and communication. In the future, Internet technology will be the platform for many telemedical applications. Second, the Internet revolutionizes the gathering, access and dissemination of non-clinical information in medicine:

Bibliographic and factual databases are now world-wide accessible via graphical user interfaces, epidemiological and public health information can be gathered using the Internet, and increasingly the Internet is used for interactive medical education applications. Third, the Internet plays an important role for consumer health education, health promotion and teleprevention. (As an aside, it should be emphasized that “health education” on the Internet goes beyond the traditional model of health education, where a medical professional teaches the patient: On the Internet, much “health education” is done “consumer-to-consumer” by means of patient self support groups organizing in cyberspace. These patient-to-patient interchanges are becoming an important part of healthcare and are redefining the traditional model of preventive medicine and health promotion).

With scholarly attention growing and with the 1999 AAAS report calling for action, other professional associations took notice and began drafting statements or guidelines, or addendum to their extant professional standards. For example, The Board of Scientific Affairs (BSA) of the American Psychological Association established an Advisory Group on Conducting Research on the Internet in 2001; the American Counseling Association's 2005 revision to its Code of Ethics; the Association of

Internet Researchers (AoIR) Ethics Working Group Guidelines, The National Committee for Research Ethics in the Social Sciences and the Humanities Research Ethics Guidelines for Internet Research, among others, have directed researchers and review boards to the ethics of Internet research, with attention to the most common areas of ethical concern (see Other Internet References for links).

While many researchers focus on traditional research ethics principles, concepts of Internet research ethics do depend on disciplinary perspectives. Some disciplines, notably from the arts and humanities, posit that Internet research is more about context and representation than about "human subjects," suggesting there is no intent, and thus minimal or no harm, to engage in research about actual persons. The debate has continued since the early 2000s. White (2002) argued against extant regulations that favored or privileged specific ideological, disciplinary and cultural prerogatives, which limit the freedoms and creativity of arts and humanities research. For example, she notes that the AAAS report "confuses physical individuals with constructed materials and human subjects with composite cultural works," again calling attention to the person versus text divide that has permeated Internet research ethics debates. Another example of disciplinary differences comes

from the Oral History Association, which acknowledged the growing use of the Internet as a site for research:

"Simply put, oral History collects memories and personal commentaries of historical significance through recorded interviews. An oral history interview generally consists of a well-prepared interviewer questioning an interviewee and recording their exchange in audio or video format. Recordings of the interview are transcribed, summarized, or indexed and then placed in a library or archives. These interviews may be used for research or excerpted in a publication, radio or video documentary, museum exhibition, dramatization or other form of public presentation. Recordings, transcripts, catalogs, photographs and related documentary materials can also be posted on the Internet." (Ritchie 2003, 19)

While the American Historical Association (Jones 2008) has argued that such research be "explicitly exempted" from review board oversight, the use of the Internet could complicate such a stance if such data became available in public settings or available "downstream" with potential, unforeseeable risks to reputation, economic standing, or psychological harm, should identification occur.

Under the concept of text rather than human subjects, Internet research rests on arguments of publication and

copyright; consider the venue of a blog, which does not meet the definition of human subject as in 45 C.F.R. § 46.102f (2009), in most interpretations. A researcher need not obtain consent to use text from a blog, as it is generally considered publicly available, textual, published material. This argument of the "public park" analogy that has been generally accepted by researchers is appropriate for some Internet venues and tools, but not all: Context, intent, sensitivity of data, and expectations of Internet participants were identified in 2004 by Sveninngsson as crucial markers in Internet research ethics considerations.

By the mid 2000s, with three major anthologies published, and a growing literature base, there was ample scholarly literature documenting IRE across disciplines and methodologies, and subsequently, there was anecdotal data emerging from the review boards evaluating such research. But, little empirical data existed regarding the actual review board processes of Internet research from a human subjects perspective. In 2006, Buchanan and Ess surveyed over 700 United States ethics review boards, and found that boards were primarily concerned with privacy, data security and confidentiality, and ensuring appropriate informed consent and recruitment procedures (Buchanan and Ess 2009; Buchanan and Hvizdak 2009).

In 2008, the Canadian Tri-Council's Social Sciences and Humanities Research Ethics Special Working Committee: A Working Committee of the Interagency Advisory Panel on Research Ethics was convened (Blackstone et al. 2008) ; and in 2010, a meeting at the Secretary's Advisory Committee to the Office for Human Research Protections highlighted Internet research (SACHRP 2010). Such prominent professional organizations as the Public Responsibility in Medicine and Research (PRIM&R) and the American Educational Research Association (AERA) have begun featuring Internet research ethics regularly at their conferences and related publications.

Recently, disciplines not traditionally involved in human subjects research have begun their own explorations of IRE. For example, researchers in computer security are actively examining the tenets of research ethics in CS and ICT (Aycock et al. 2012; Dittrich, Bailey, Dietrich 2011; Carpenter & Dittrich 2011; Buchanan et al. 2011). Notably, the US Federal Register called for comment on “The Menlo Report” in January 2012, which calls for a commitment by computer science researchers to the three principles of respect for persons, beneficence, and justice, while also adding a fourth principle on respect for law and public interest (Homeland Security 2011).

4.Specific Ethical Issues in Internet Research

4.1 Privacy

Principles of research ethics dictate that researchers must ensure there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of any data collected. A violation of privacy or breach of confidentiality presents a risk of serious harm to participants, ranging from the exposure of personal or sensitive information, the divulgence of embarrassing or illegal conduct, or the release of data otherwise protected under law.

Research ethics regulations express concern over subject privacy in terms of the level of linkability of data to individuals, and the potential harm disclosure of information could pose. For example, when discussing the possible exemption of certain research from human subject review, federal guidelines require oversight in these circumstances:

(i) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (ii) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing,

employability, or reputation (45 C.F.R. § 46.101(b)(2) 2009).

The protection of privacy and confidentiality is typically achieved through a combination of research tactics and practices, including engaging in data collection under controlled or anonymous environments, the scrubbing of data to remove personally identifiable information, or the use of access restrictions and related data security methods.

Compliance with federal guidelines also rests on the definition of what kind of data are considered personally identifiable information (PII), and therefore triggering special privacy considerations. The National Institutes of Health (NIH), for example, defines PII as follows:

> any information about an individual maintained by an agency, including, but not limited to, education, financial transactions, medical history, and criminal or employment history and information which can be used to distinguish or trace an individual's identity, such as their name, SSN, date and place of birth, mother's maiden name, biometric records, etc., including any other personal information that is linked or linkable to an individual. (NIH 2008)

Typically, examples of identifying pieces of information have included personal characteristics (such as date of birth,

place of birth, mother's maiden name, gender, sexual orientation, and other distinguishing features and biometrics information, such as height, weight, physical appearance, fingerprints, DNA and retinal scans), unique numbers or identifiers assigned to an individual (such as a name, address, phone number, social security number, driver's license number, financial account numbers), and descriptions of physical location (GIS/GPS log data, electronic bracelet monitoring information).

Internet research introduces new complications to these longstanding definitions and regulatory frameworks intended to protect subject privacy. For example, researchers increasingly are able continue to collect detailed data about individuals from sources such as Facebook, Twitter, blogs or public email archives, and these rich data sets can more easily be processed, compared, and combined with other data (and datasets) available online. In various cases, researchers (and sometimes even amateurs) have been able to re-identify individuals by analyzing and comparing such datasets, using data-fields as benign as one's zip code (Sweeny 2002), random Web search queries (Barbaro & Zeller 2006), or movie ratings (Narayanan & Shmatikov 2008) as the vital key for reidentification of a presumed anonymous user. Prior to widespread Internet-based data collection and processing, few would have considered one's

movie ratings or zip code as personally-identifiable. Yet, these cases reveal that merely stripping traditional “identifiable” information such as a subject's name, address, or social security number is no longer sufficient to ensure a data remains anonymous (Ohm 2009), and requires the reconsideration of what is considered “personally identifiable information” (Schwartz & Solove 2011). This points to the critical distinction between data which is kept confidential versus data that is truly anonymous. Increasingly, data is rarely completely anonymous, as researchers have routinely demonstrated they can often reidentify individuals hidden in “anonymized” data with ease (Ohm 2009). This reality places new pressure on ensuring data is kept, at the least, suitably confidential through both physical and computational security measures.

Similarly, new types of data often collected in Internet research might also be used to identify a subject within a previously-assumed anonymous dataset. For example, Internet researchers might also collect Internet Protocol (IP) addresses when conducting online surveys or analyzing transaction logs. An IP address is a unique identifier that is assigned to every device connected to the Internet; in most cases, individual computers are assigned a unique IP address, while in some cases the address is assigned to a larger node or Internet gateway for a collection of

computers. Nearly all websites and Internet service providers store activity logs that link activity with IP address, in many cases, eventually to specific computers or users. Current US law does not hold IP addresses to be personally identifiable information, while other countries and regulatory bodies do. For example, the European Data Privacy Act at Article 29, holds that IP addresses do constitute PII. Buchanan et al. (2011), note, however, that under the US Civil Rights Act, for the purposes of the HIPAA Act,[3] IP addresses are considered a form of PII (45 C.F.R. § 164.514 2002).[4] There could potentially be a reconsideration by other Common Rule Agencies over IP addresses as PII, and researchers and boards will need to be attentive should such change occur.

A similar complication emerges when we consider the meaning of “private information” within the context of Internet-based research. Federal regulations define “private information” as:

[A]ny information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information that has been provided for specific purposes by an individual and that the individual can reasonably expect will not be

made public (for example, a medical record) (45 C.F.R. § 46.102(f) 2009).

This standard definition of “private information” has two key components. First, private information is that which subjects reasonably expect is not normally monitored or collected. Second, private information is that which subjects reasonable expect is not normally publicly available. Conversely, the definition also suggests the opposite is true: if users cannot reasonably expect data isn't being observed or recorded, or they cannot expect data isn't publicly available, then the data does not rise to the level of “private information” requiring particular privacy protections. Researchers and REBs have routinely worked with this definition of “private information” to ensure the protection of subject privacy.

These distinctions take on greater weight, however, when considering the data environments and collection practices common with Internet-based research. Researchers interested in collecting or analyzing online actions of subjects—perhaps through the mining of online server logs, the use of tracking cookies, or the scraping of social media profiles and feeds—could argue that subjects do not have a reasonable expectation that such online activities are not routinely monitored since nearly all online transactions and

interactions are routinely logged by websites and service providers. Thus, online data trails might not rise to the level of “private information”. However, numerous studies have indicated that average Internet users have incomplete understandings of how their activities are routinely tracked, and the related privacy practices and policies of the sites they visit (Hoofnagle & King 2009; Milne & Culnan 2004; Tsai et al. 2006). Hudson and Bruckman (2005) conducted empirical research on users expectations and understandings of privacy, finding that participants' expectations of privacy conflict with the reality of public chatrooms. Rosenberg (2010) examined the public/private distinction in the realm of virtual worlds. Thus, it remains unclear whether Internet users truly understand if and when their online activity is regularly monitored and tracked, and what kind of reasonable expectations truly exist. This ambiguity creates new challenges for researchers and REBs when trying to apply the definition of “private information” to ensure subject privacy is properly addressed (Zimmer 2010).

This complexity in addressing subject privacy in Internet research is further compounded with the rise of social networking as a place for the sharing of information, and a site for research. Users increasingly share more and more personal information on platforms like Facebook, MySpace, or Twitter. For researchers, social media

platforms provide a rich resource for study, and much of the content is available to be viewed and downloaded with minimal effort. Since much of the information posted to social media sites is publicly viewable, it thus fails to meet the standard regulatory definition of “private information.” Therefore, researches attempting to collect and analyze social media postings might not treat the data as requiring any particular privacy considerations. Yet, social media platforms represent a complex environment of social interaction where users are often required to place friends, lovers, colleagues, and minor acquaintances within the same singular category of “friends”, where privacy policies and terms of service are not fully understood (Madejski et al. 2011), and where the technical infrastructures fail to truly support privacy projections (Bonneau & Preibush 2009) and regularly change with little notice (Stone 2009; Zimmer 2009). As a result, it is difficult with certainty to understand what a user's intention was when posting an item onto a social media platform (Acquisti & Gross 2006). It could be been meant to be visible to only a small circle of friends, but the user failed to completely understand how to adjust the privacy settings accordingly. Or, the information might have previously been restricted to only certain friends, but a change in the technical platform suddenly made the data more visible to all.

Ohm (2010) warns that “the utility and privacy of data are linked, and so long as data is useful, even in the slightest, then it is also potentially reidentifiable” (p. 1751). With the rapid growth of Internet-based research, Ohm's concern becomes even more dire. The traditional definitions and approaches to understanding the nature of privacy, anonymity, and precisely what kind of information deserves protection becomes strained, forcing researchers and REBs to consider more nuanced theories of privacy (Nissenbaum 2009) and approaches to respecting and projecting subject privacy (Markham 2012; Zimmer 2010).

4.2 Recruitment

Depending on the type of Internet research being carried out, recruitment of participants may be done in a number of ways. As with any form of research, the population or participants is selected for specific purposes (i.e., an ethnographic study of a particular group on online game players), or, can be selected from a range of sampling techniques (i.e., a convenience sample gleaned from the users of Amazon's Mechanical Turk crowdsourcing platform[5]). In the US context, a recruitment plan is considered part of the informed consent process, and as such, any recruitment script or posting must be reviewed and approved by an REB prior to posting or beginning

solicitation (if the project is human subjects research). Further, selection of participants must be fair, and risks and benefits must be justly distributed. This concept is challenging to apply in Internet contexts, in which populations are often self-selected and can be exclusive, depending on membership and access status. A researcher faces challenges in recruitment due to potential anonymity, especially regarding age verification, use of pseudonyms, and multiple or alternative identities, the inherent flux of identities and number of members, and the ongoing economic and social disparities in Internet access and usage. Moreover, basic ethical principles for approaching and recruiting participants involve protecting their privacy and confidentiality. Internet research can both maximize these protections, as an individual may never be known beyond a screen name or avatar existence; or, conversely, the use of IP addresses, placement of cookies, availability and access to more information than necessary for the research purposes, may minimize the protections of privacy and confidentiality.

Much recruitment is taking place via social media; examples include push technologies, a synchronous approach in which a text or tweet is sent from a researcher to potential participants. Geolocational status through mobile devices and push technology recruitment, in tandem,

allow for novel forms of recruitment for such research as in clinical trials. Other methods of pull technologies recruitment include direct email, dedicated web pages, YouTube videos, direct solicitation via “stickies” posted on fora or web sites directing participants to a study site, or data aggregation or scraping data for potential recruitment. Regardless of the means used, researchers must follow the terms of the site—from the specific norms and nuances governing a site or locale to the legal issues in terms of service agreements. For example, early pro-ana web sites (see Overbeke 2008) were often “protected” and researchers were asked to respect the privacy of the participants and not engage in research (Walstrom 2004). In the gaming context, Reynolds and de Zwart (2010) ask:

Has the researcher disclosed the fact that he or she is engaged in research and is observing/interacting with other players for the purposes of gathering research data? How does the research project impact upon the community and general game play? Is the research project permitted under the Terms of Service?

Colvin and Lanigan (2005, 38) suggest researchers

Seek permission from Web site owners and group moderators before posting recruitment announcements, Then, preface the recruitment announcement with a

statement that delineates the permission that has been granted, including the contact person and date received. Identify a concluding date (deadline) for the research study and make every effort to remove recruitment postings, which often become embedded within Web site postings.

Barratt and Lenton (2010), among others, agree:

It is critical, therefore, to form partnerships with online community moderators by not only asking their permission to post the request, but eliciting their feedback and support as well.

Mendelson (2007) and Smith and Leigh (1997) note that recruitment notices need to contain more than the typical flyers or advertisements used for newspaper advertisements. Mentioning the approval of moderators is important for establishing authenticity, and so is providing detailed information about the study and how to contact the researchers and research ethics committee.

Given the array of techniques possible for recruitment, the concept of “research spam” requires attention. The Council of American Survey Research warns

Research Organizations should take steps to limit the number of survey invitations sent to targeted respondents by email solicitations or other methods over the Internet so as

to avoid harassment and response bias caused by the repeated recruitment and participation by a given pool (or panel) of data subjects. (CASRO 2011, I.B.3)

Ultimately, researchers using Internet recruitment measures must ensure that potential participants are getting enough information in both the recruitment materials and any subsequent consent documents. Researchers must ensure that recruitment methods do not lead to an individual being identified, and if such identification is possible, are there significant risks involved?

4.3 Informed Consent

As the cornerstone of human subjects protections, informed consent means that participants are voluntarily participating in the research with adequate knowledge of relevant risks and benefits. Providing informed consent typically includes the researcher explaining the purpose of the research, the methods being used, the possible outcomes of the research, as well as associated risks or harms that the participants might face. The process involves providing the recipient clear and understandable explanations of these issues in a concise way, providing sufficient opportunity to consider them and enquire about any aspect of the research prior to granting consent, and ensuring the subject has not been coerced into

participating. Gaining consent in traditional research is typically done verbally, either in a face-to-face meeting where the researcher reviews the document, through telephone scripts, through mailed documents, fax, or video, and can be obtained with the assistance of an advocate in the case of vulnerable populations. Most importantly, informed consent was built on the ideal of "process" and the verification of understanding, and thus, requires an ongoing communicative relationship between and among researchers and their participants. Given new Internet technologies, tools, and venues, confounding security and confidentiality concerns require attention as they impact informed consent.

In most regulatory frameworks, there are instances when informed consent might be waived, or the standard processes of obtaining informed consent might be modified, if approved by a research ethics board.[6] Various forms of Internet research require different approaches to the consent process. Some standards have emerged, depending on venue (i.e., an online survey platform versus a virtual world island). However, researchers are encouraged to consider waiver of consent and/or documentation, if appropriate, by using the flexibilities of their extant regulations.

Where consent is required but documentation is waived, a "portal" can be used to provide consent information. For

example, a researcher may send an email to the participant with a link a separate portal or site information page where information on the project is contained. The participant can read the documentation and click on an “I agree” submission. Rosser et al. (2010) recommend using a “chunked” consent document, whereby individuals can read specific sections, agree, and then continue onwards to completion of the consent form, until reaching the study site.

In addition to portals, researchers will often make use of consent cards or tokens in virtual worlds; this alleviates concerns that unannounced researcher presence is unacceptable, or, that a researcher's presence is intrusive to the natural flow and movement of a given locale. Hudson and Bruckman (2004, 2005) highlighted the unique challenges in gaining consent in chat rooms, while Lawson (2004) offers an array of consent possibilities for synchronous CMC. There are different practical challenges in the consent process in Internet research, given the fluidity and temporal nature of Internet spaces.

If documentation is required, some researchers have utilized alternatives such as electronic signatures, which can range from a simple electronic check box to acknowledge acceptance of the terms to more robust means of validation

using encrypted digital signatures, although the validity of electronic signatures vary by jurisdiction.

Regardless of venue, informed consent documents are undergoing a discursive change. While the basic elements of consent remain intact, researchers must now acknowledge with less certainty specific aspects of their data longevity, risks to privacy, confidentiality and anonymity (see Privacy, above), and access to or ownership or data. Researchers must address and inform participants/subjects about potential risk of data intrusion or misappropriation of data if subsequently made public or available outside of the confines of the original research. Statements should be revised to reflect such realities as cloud storage (see below) and data sharing.

For example, Aycock et al. (2012, p. 141) describe a continuum of security and access statements used in informed consent documents:

- “No others will have access to the data.”
- “Anonymous identifiers will be used during all data collection and analysis and the link to the subject identifiers will be stored in a secure manner.”
- “Data files that contain summaries of chart reviews and surveys will only have study numbers

but no data to identify the subject. The key [linking] subject names and these study identifiers will be kept in a locked file."

- "Electronic data will be stored on a password protected and secure computer that will be kept in a locked office. The software 'File Vault' will be used to protect all study data loaded to portable laptops, flash drives or other storage media. This will encode all data… using Advanced Encryption Standard with 128-bit keys (AES-128)"

This use of encryption in the last statement may be necessary in research including sensitive data, such as medical, sexual, health, financial, and so on. Barratt and Lenton (2010), in their research on illicit drug use and online forum behaviors, also provide guidance about use of secure transmission and encryption as part of the consent process.

In addition to informing participants about potential risks and employing technological protections, US-based researchers working with sensitive biomedical, behavioral, clinical or other types of research, may choose to obtain a Certificate of Confidentiality from the National Institutes of Health (NIH 2011). However, these do not protect against release of data outside of the US. Given the reality of

Internet research itself, which inherently spans borders, new models may be in order to ensure confidentiality of data and protections of data. Models of informed consent for traditional international research are fundamentally challenging due to cultural specificity and norms (Annas 2009; Boga et al. 2011; Krodstad et al. 2010); with Internet research, where researchers may be unaware of the specific location of an individual, consent takes on significantly higher demands. While current standards of practice show that consent models stem from the jurisdiction of the researcher and sponsoring research institution, complications arise in the face of age verification, age of majority/consent, reporting of adverse effects or complaints with the research process, and authentication of identity. Various jurisdictional laws around privacy are relevant for the consent process; a useful tool is the data privacy heat map (Forrester 2011).

In addition, as more federal agencies and funding bodies across the globe require data sharing (i.e., NSF, NIH, Wellcome Trust, Research Councils UK), the language used in consent documents will change accordingly to represent this intended longevity of data and opportunities for future, unanticipated use. This is not an entirely new concept nor is it specific to Internet research, but it should be noted that new language is required for consent.

Given the ease with which Internet data can flow between and among Internet venues (a Twitter feed can automatically stream to a Facebook page), the changes with which access to data can occur (early "private" newsgroup conversations were made "publicly searchable" when Google bought DejaNews), reuse and access by others is highly possible. Current data sharing mandates must be considered in the consent process. Alignment between a data sharing policy and an informed consent document is imperative. Both should include provisions for appropriate protection of privacy, confidentiality, security, and intellectual property.

There is general agreement in the US that consent is not necessary for publicly available data sets, under 45 C.F.R. § 46; recommendations were made by The National Human Subjects Protection Advisory Committee (NHRPAC) in 2002 regarding publicly available data sets (see Other Internet Resources). Data use or data restriction agreements are commonly used and set the parameters of use for researchers.

The UK Data Archive (2012) provides guidance on consent and data sharing:

Restricting access to data should never be seen as the only way to protect confidentiality. Obtaining appropriate

informed consent and anonymising data enable most data to be shared:

For confidential data, the Archive, in discussion with the data owner, may impose additional access regulations, which can be:

- needing specific authorisation from the data owner to access data-placing confidential data under embargo for a given period of time until confidentiality is no longer pertinent

- providing access to approved researchers

- only providing secure access to data by enabling remote analysis of confidential data but excluding the ability to download data

To mediate many of the ethical concerns, REBs are moving to blanket statements in their consent forms, indicating such precautions for research participants. For example,

"I understand that online communications may be at greater risk for hacking, intrusions, and other violations. Despite these possibilities, I consent to participate."

A more specific example comes from the Canadian context when researchers propose to use specific online survey tools hosted in the United States; REBs commonly recommend the following type language for use in informed consent documents:

Please note that the online survey is hosted by Company ABC which is a web survey company located in the USA. All responses to the survey will be stored and accessed in the USA. This company is subject to U.S. Laws, in particular, to the US Patriot Act/Domestic Security Enhancement Act that allows authorities access to the records that your responses to the questions will be stored and accessed in the USA. The security and private policy for Company ABC can be viewed at http://…/.[7]

Researchers are also encouraged to reviewed the Terms of Use and Terms of Service of the application that are being used, demonstrating its details to the REB in the application and informing participants of such details in the Informed Consent Form or script.

4.3.1 Minors and Consent

Internet research poses particular challenges to age verification, assent and consent procedures, and appropriate methodological approaches with minors. Age of consent

varies across countries, states, communities, and locales of all sorts. For research conducted or supported by US Common Rule Federal Agencies, children are "persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law of the jurisdiction in which the research will be conducted" (45 C.F.R. § 46.402(a) 2009). Goldfarb (2008) provides an exhaustive discussion of age of majority across the US states, with a special focus on *clinical research*, noting children must be seven or older to assent to participation (see 45 C.F.R. § 46 Subpart D 2009).

Spriggs, from the Australian context, notes that while no formal guidance exists on Internet research and minors under the *National Statement*, she advises:

- Parental consent may be needed when information is potentially identifiable. Identifiable information makes risks to individuals higher and may mean that the safety net of parental consent is preferable.

- There is also a need to consider whether seeking parental consent would make things worse e.g., by putting a young person from a dysfunctional home at risk or result in disclosure to the researcher of additional identifying information about the identity and location of the young person. Parental consent may be "contrary to the best

> interests” of the child or young person when it offers no protection or makes matters worse. (Spriggs 2010, 30)

To assist with the consent process, age verification measures can be used. These can range from more technical software applications to less formal knowledge checks embedded in an information sheet or consent document. Multiple confirmation points (asking for age, later asking for year of birth, etc) are practical measures for researchers. Depending on the types of data, sensitivity of data, use of data, researchers and boards will carefully construct the appropriate options for consent, including waiver of consent, waiver of documentation, and/or waiver of parental consent.

4.4 Cloud Computing and Research Ethics

Recent developments in cloud computing platforms have led to unique opportunities—and ethical challenges—for researchers. Cloud computing describes the deployment of computing resources via the Internet, providing on-demand, flexible, and scalable computing from remote locations. Examples include web-based email and calendaring services provided by Google or Yahoo, online productivity platforms like Google Docs or Microsoft Office 365, online file storage and sharing platforms like Dropbox or Box.net, and large-scale application development and

data processing platforms such as Google Apps, Facebook Developers Platform, and Amazon Web Services.

Alongside businesses and consumers, researchers have begun utilizing cloud computing platforms and services to assist in various tasks, including subject recruitment, data collection and storage, large-scale data processing, as well as communication and collaboration (Allan 2011; Chen et al. 2010; Simmhan et al. 2008; Yogesh et al. 2009).

As reliance on cloud computing increases among researchers, so do the ethical implications. Among the greatest concerns is ensuring data privacy and security with cloud-based services. For researchers sharing datasets online for collaborative processing and analysis, steps must be taken to ensure only authorized personnel have access to the online data, but also that suitable encryption is used for data transfer and storage, and that the cloud service provider maintains sufficient security to prevent breaches. Further, once research data is uploaded to a third-party cloud provider, attention must be paid to the terms of service for the contracted provider to determine what level of access to the data, if any, might be allowed to advertisers, law enforcement, or other external agents.

Alongside the privacy and security concerns, researchers also have an ethical duty of data stewardship which is

further complicated when research data is placed in the cloud for storage or processing. Cloud providers might utilize data centers spread across the globe, meaning research data might be located outside the United States, and its legal jurisdictions. Terms of service might grant cloud providers a license to access and use research data for purposes not initially intended or approved of by the subjects involved. Stewardship may require the prompt and complete destruction of research data, a measure complicated if a cloud provider has distributed and backed-up the data across multiple locations.

A more unique application of cloud computing for research involves the crowdsourcing of data analysis and processing functions, that is, leveraging the thousands of users of various online products and services to complete research related tasks remotely. Examples include using a distributed network of video game players to assist in solving protein folding problems (Markoff 2010), and leveraging Amazon's Mechanical Turk crowdsourcing marketplace platform to assist with large scale data processing and coding functions that cannot be automated (Conley & Tosti-Kharas 2010; Chen et al. 2011). Using cloud-based platforms can raise various critical ethical and methodological issues.

First, new concerns over data privacy and security emerge when research tasks are widely distributed across a global network of users. Researchers must take great care in ensuring sensitive research data isn't accessible by outsourced labor, or that none of the users providing crowdsourced labor are able to aggregate and store their own copy of the research dataset. Second, crowdsourcing presents ethical concerns over trust and validity of the research process itself. Rather than a local team of research assistants usually under a primary investigator's supervision and control, crowdsourcing tends to be distributed beyond the direct management or control of the researcher, providing less opportunity to ensure sufficient training for the required tasks. Thus, researchers will need to create additional means of verifying data results to confirm tasks are completed properly and correctly.

Two additional ethical concerns with crowdsourcing involve labor management and authorship. Turks were not originally intended to be research subjects, first and foremost. However, researchers using Mechanical Turks must ensure that the laborers on the other end of the cloud-based relationship are not being exploited, that they are legally eligible to be working for hire, and that the incentives provided are real, meaningful, and appropriate (Scholz 2008; Williams 2010).

Finally, at the end of a successful research project utilizing crowdsourcing, a researcher may be confronted with the ethical challenge of how to properly acknowledge the contributions made by (typically anonymous) laborers. Ethical research requires the fair and accurate description of authorship on research results. Disciplines vary as to how to report relative contributions made by research assistants, and this dilemma increases when crowdsourcing is used to assist with the research project.

Summary

There is little research that is not impacted in some way on or through the Internet. The Internet, as a field, a tool, and a venue, has specific and far reaching ethical issues. Internet research ethics is a subdiscipline that fits across many disciplines, ranging from social sciences, arts and humanities, medical/biomedical, and hard sciences. Extant ethical frameworks, including

consequentialism, utilitarianism, deontology, virtue ethics, and feminist ethics have contributed to the ways in which ethical issues in Internet research are considered and evaluated.

Conceptually and historically, Internet research ethics is related to computer and information ethics and includes

such ethical issues as data privacy and confidentiality, integrity of data, intellectual property issues, and professional standards. Throughout the Internet's evolution, there has been debate whether there are new ethical dilemmas emerging, or if the existing dilemmas are consistent across research or despite technological influence (Elgesem 2002; Walther 2002; Ess & AoIR 2002). These debates are similar to philosophical debates in computer and information ethics. For example, many years ago, Moor asked “what is special about computers” in order to understand what is ethically unique and the same question applies to Internet research (Moor 1985; Ess & AoIR 2002; King 1996).

Yet, as the Internet has evolved into a more social and communicative tool and venue, the ethical issues have shifted from purely data driven to more human-centered. “On-ground” or face-to face analogies may not be applicable to online research. For example, the concept of the public park has been used as a site where researchers can observe others, but online, the concepts of public and private are much more complex. Thus, some scholars suggest that the specificity of Internet research ethics calls for new regulatory and/or professional and disciplinary guidance. For these reasons, the concept of human subjects research policy and regulation informs this entry, along with

disciplinary standards, which will explore the growing areas of ethical and methodological complexity, including personal identifiability, reputational risk and harm, notions of public space and public text, ownership, and longevity of data as they relate to Internet research. Specifically, the emergence of the social web raises issues around subject or participant recruitment practices, tiered informed consent models, and protection of various expectations and forms of privacy in an ever-increasing world of diffused and ubiquitous technologies; anonymity and confidentiality of data in spaces where researchers and their subjects may not fully understand the terms and conditions of those venues or tools; challenges to data integrity as research projects can be outsourced to a mechanical turk or a bot; and jurisdictional issues as more research is processed, stored, and disseminated via cloud computing or in remote server locales, presenting myriad legal complexities given jurisdictional differences in data laws.

As a result, researchers using the Internet as a tool or a space of research—and their research ethics boards (REBs), also known as institutional review boards (IRBs) in the United States or human research ethics committees (HRECs) in other countries such as Australia—have been confronted with a series of new ethical enquiries: What ethical obligations do researchers have to protect the privacy

of subjects engaging in activities in “public” Internet spaces? How is confidentiality or anonymity assured online? How is and should informed consent be obtained online? How should research on minors be conducted, and how do you prove a subject is not a minor? Is deception (pretending to be someone you are not, withholding identifiable information, etc) online a norm or a harm? How is “harm” possible to someone existing in an online space?

A growing number of scholars have explored these and related questions (see, for example, Bromseth 2002; Bruckman 2006; Buchanan 2004; Buchanan & Ess 2008; Gullor & Ess 2003; Johns, Chen & Hall 2003; Kitchin 2003, 2008; King 1996; Mann 2003; Markham & Baym 2008; McKee & Porter 2009; Thorseth 2003), scholarly associations have drafted ethical guidelines for Internet research (Ess & Association of Internet Researchers 2002; Kraut et al. 2004), and non-profit scholarly and scientific agencies such as AAAS (Frankel & Siang 1999) have begun to confront the myriad of ethical concerns that Internet research poses to researchers and research ethics boards (REBs).

Exercise

1- Define the term “Internet Research Ethics” (IRE).
2- Explain the History and Development of IRE as a Discipline.
3- “In 2008, the Canadian Tri-Council's Social Sciences and Humanities Research Ethics Special Working Committee: A Working Committee of the Interagency Advisory Panel on Research Ethics was convened (Blackstone et al. 2008) ; and in 2010, a meeting at the Secretary's Advisory Committee to the Office for Human Research Protections highlighted Internet research (SACHRP 2010). Such prominent professional organizations as the Public Responsibility in Medicine and Research (PRIM&R) and the American Educational Research Association (AERA) have begun featuring Internet research ethics regularly at their conferences and related publications.” Translate into Arabic.

Answers

1. *IRE* is defined as the analysis of ethical issues and application of research ethics principles as they pertain to research conducted on and in the Internet. Internet-based research, broadly defined, is research which utilizes the Internet to collect information

through an online tool, such as an online survey; studies about how people use the Internet,etc..

2. History and Development of IRE as a Discipline

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